

THE BIRTHPLACE OF VERMONT



HENRY STEELE WARDNER

Greene County District Library (Ohio)



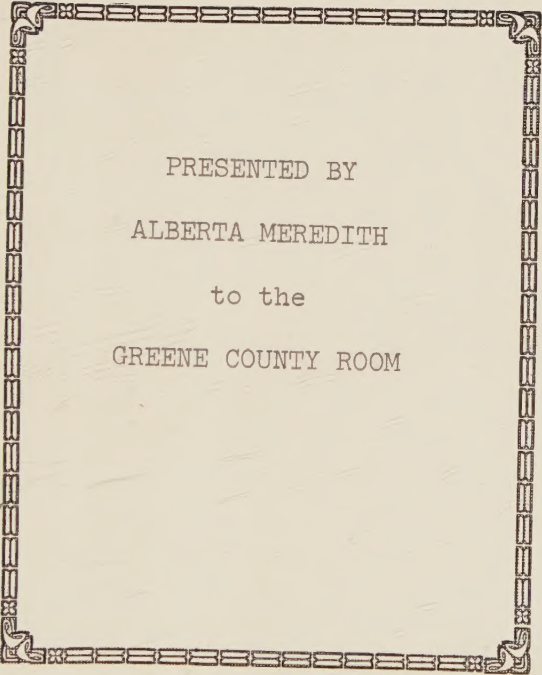
0 53 85 0364642 3

15.00
TX

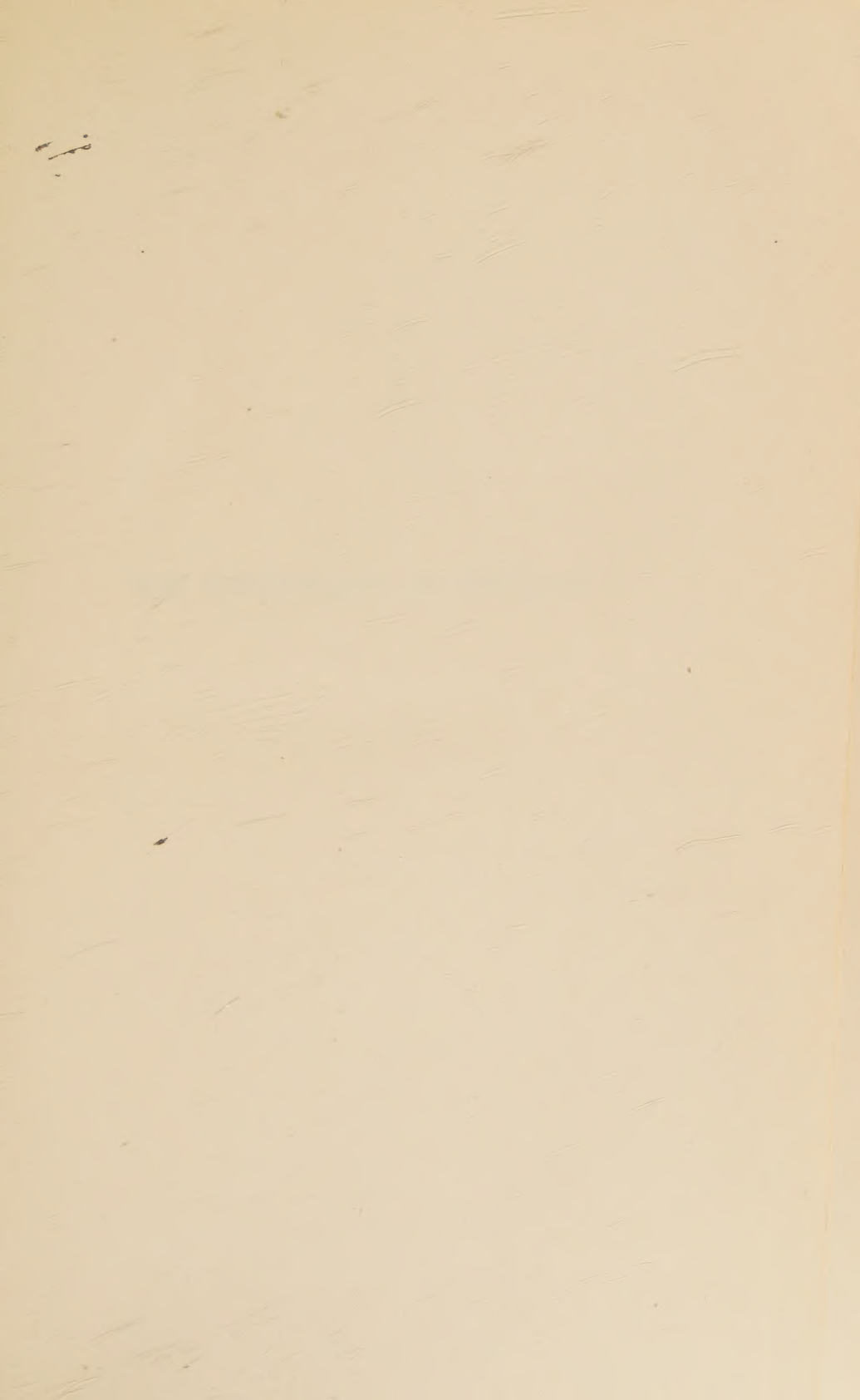
Greene Co. Room 974 .3 Winds
1m

Wardner, Henry Steele.

The birthplace of Vermont;



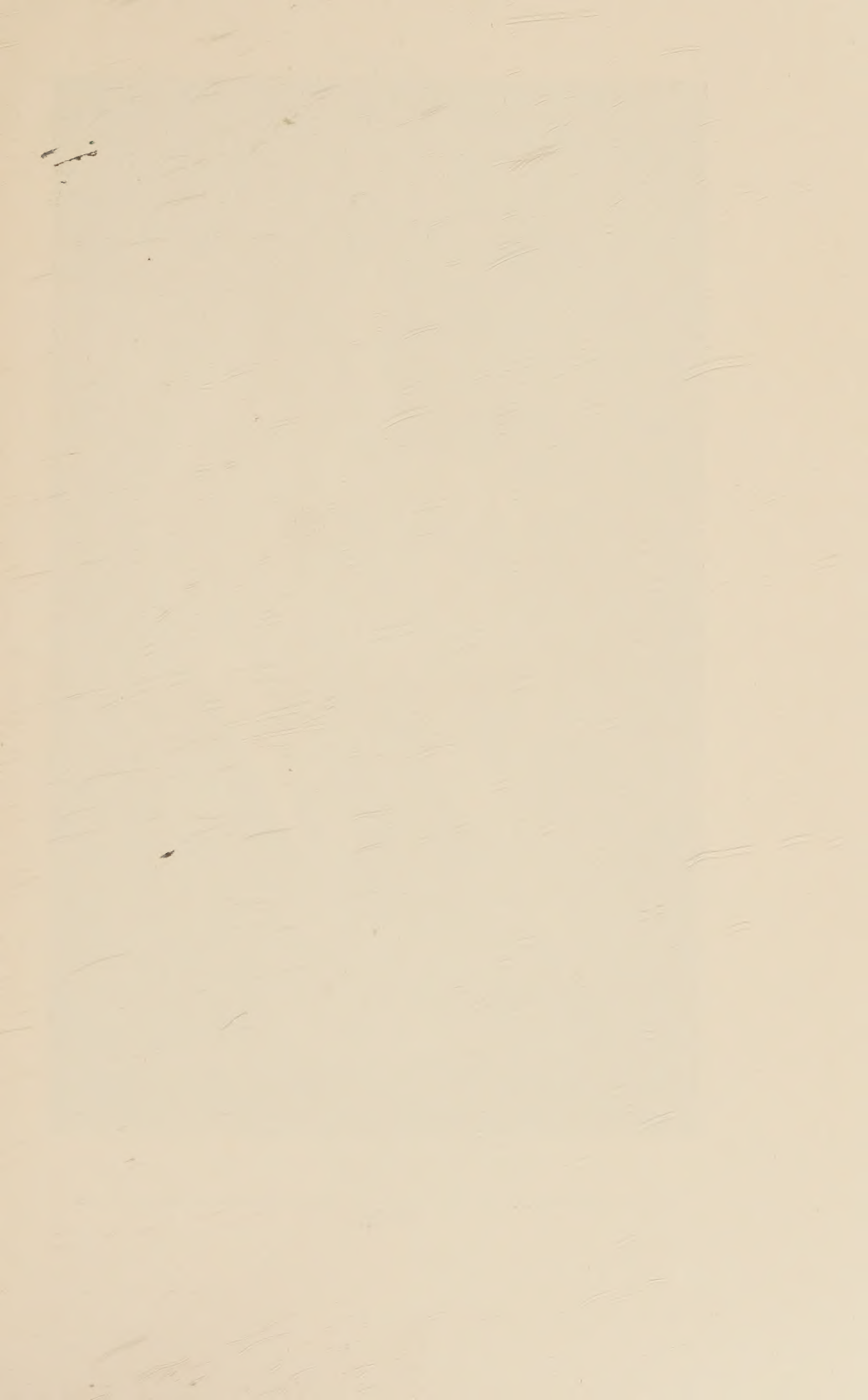
PRESENTED BY
ALBERTA MEREDITH
to the
GREENE COUNTY ROOM





Digitized by the Internet Archive
in 2025

THE BIRTHPLACE OF VERMONT





KING CHARLES THE SECOND

From a painting by Sir Peter Lely, in the possession of the Duke of Richmond

THE BIRTHPLACE OF VERMONT

A
HISTORY OF WINDSOR
TO 1781

BY
HENRY STEELE WARDNER



NEW YORK
PRIVATELY PRINTED BY
CHARLES SCRIBNER'S SONS
1927

COPYRIGHT, 1927, BY
HENRY STEELE WARDNER

Printed in the United States of America



TO
THE MEMORY OF
STEEL SMITH, SOLOMON EMMONS,
NATHAN STONE, ISRAEL CURTIS, THOMAS COOPER,
WILLIAM DEAN, EBENEZER HOISINGTON, BENJAMIN WAIT,
HEZEKIAH THOMSON AND EBENEZER CURTIS

God gives all men all earth to love,
But since man's heart is small,
Ordains, for each, one spot shall prove
Belovèd over all.

—KIPLING.

AUTHOR'S NOTE

THIS book is the work of evenings and holidays. The actual writing was begun as early as 1914. Evidences of this, though they mar the text, I have not thought it worth while to remove. The story goes beyond the limits of a history of the town of Windsor, because I was not fully satisfied with any of the several printed histories of Vermont; was convinced that none of them had attached enough importance to Windsor's place in the history of the State, and because I wished to give to Windsor what I believed to be a truer historical setting.

While engaged in preparing this volume I encountered few people sufficiently learned in Vermont or Windsor history to be of assistance to me, but for valued suggestions and other help in the study of my subject I gladly make acknowledgment to Mr. Wilberforce Eames, head of the American History Department of the New York Public Library; Mr. A. J. Wall, Librarian of the New York Historical Society; Mr. George B. Upham, of Claremont, N. H.; Mr. F. A. Howland, of Montpelier, Vt.; Mr. R. C. Myrick, Deputy Secretary of State of the State of Vermont; Mr. Otis G. Hammond, Superintendent of the New Hampshire Historical Society; Mr. Herbert W. Denio, Librarian of the Vermont Historical Society, and Mr. K. W. Perkins, Town Clerk of Windsor.

Of all books dealing with Vermont history, the work of Benjamin Homer Hall, entitled *The History of Eastern Vermont*, has been found one of the most useful. That work, covering an immense amount of original research which saved from oblivion many important items, was compiled and published by Mr. Hall before he was thirty years old. It is a remarkable production. The Historical Address delivered by the Reverend Sewall Sylvester Cutting, D.D., at Windsor's Centennial celebration, July 4, 1876, is the choicest single article on Windsor history. To these works and to the invaluable volumes of Mr. E. P. Walton's annotated *Governor*

and Council and Doctor E. B. O'Callaghan's *Documentary History of New York* a special debt of gratitude is due.

The titles of the authorities cited are usually abbreviated, but the reader can easily identify most of them. The abbreviation "Lond. Doc." refers to those volumes of *Documents Relative to the Colonial History of the State of New York*, which commonly go by the sub-title *London Documents*. "Doc. Hist." means the quarto edition of the *Documentary History of New York*. Slade's *Vermont State Papers*, published in 1823 and often referred to, must be distinguished from the manuscript volumes of *State Papers* in the office of Vermont's Secretary of State, and also from the recently published books of *State Papers* containing the index of material in the Surveyor-General's office at Montpelier, the Vermont Charters, and the early journals of Vermont's General Assembly—all of which publications, unfortunately, are labeled "State Papers."

June, 1927.

H. S. WARDNER.

CONTENTS

CHAPTER	PAGE
I. THE BEGINNING	1
II. THE SETTLEMENT OF VERMONT	5
III. BENNING WENTWORTH	10
IV. CADWALLADER COLDEN	18
V. THE NEW HAMPSHIRE GRANT OF WINDSOR	23
VI. THE PROPRIETORS	35
VII. COLDEN PREVAILS	43
VIII. THE SETTLEMENT OF WINDSOR	49
IX. A VISIT TO NEW YORK CITY	56
X. SIR HARRY MOORE	64
XI. CUMBERLAND AND GLOUCESTER	81
XII. SETTLING THE GOSPEL IN WINDSOR	85
XIII. JOHN WENTWORTH VISITS WINDSOR	97
XIV. ORGANIZING A TOWN GOVERNMENT	107
XV. THE DEAN BOYS ARE ARRESTED	117
XVI. THE DEANS ENGAGE EMINENT COUNSEL	125
XVII. THE DEANS ARE CONVICTED	130
XVIII. JOHN WENTWORTH EMBARRASSES COLDEN	140
XIX. RIOTS BREAK OUT IN WINDSOR	142
XX. COLONEL STONE'S RIOTERS INVADE CHESTER	154
XXI. THE ABDUCTION OF JOHN GROUT	159
XXII. THE EARL OF DUNMORE	167
XXIII. THE CENSUS OF 1771	183
XXIV. COLONEL STONE MAKES UP WITH NEW YORK	191
XXV. THE NEW YORK PATENT	202

CHAPTER	PAGE
XXVI. LAWFUL TOWN GOVERNMENT	224
XXVII. A BREATHING SPACE	230
XXVIII. THE EVE OF THE REVOLUTION	237
XXIX. ANY PORT IN A STORM	253
XXX. EBENEZER HOISINGTON	271
XXXI. WITH WHOM TO ASSOCIATE	285
XXXII. THE RANGERS	291
XXXIII. WINDSOR'S DELEGATE AT DORSET	299
XXXIV. THE PHELPS LETTER MAKES TROUBLE	308
XXXV. THE REVOLT HANGS FIRE	324
XXXVI. DECLARATIONS OF INDEPENDENCE	334
XXXVII. WINDSOR IN THE YEAR 1777	349
XXXVIII. THE JUNE CONVENTION	366
XXXIX. A STATE IS FORMED	376
XL. THE CONSTITUTION	386
XLI. THE FIRST DAYS OF STATEHOOD	396
XLII. THE COUNCIL OF SAFETY	404
XLIII. IN WINDSOR ON CHRISTMAS EVE	414
XLIV. THE FIRST CONSTITUTIONAL ELECTIONS	421
XLV. THE FIRST VERMONT LEGISLATURE	434
XLVI. PERMANENT STATE GOVERNMENT	444
XLVII. THE NEW STATE TOTTERS	460
XLVIII. ERRATIC DAYS	477
XLIX. WINDSOR GAINS SOME "NICE PEOPLE"	506
L. VERMONT BECOMES IMPERIALISTIC	527
APPENDIX: EARLY MANUSCRIPT RECORDS	545
INDEX	549

ILLUSTRATIONS

King Charles the Second	<i>Frontispiece</i>
Benning Wentworth, Governor of the Province of New Hampshire	12
Doctor Cadwallader Colden, Lieutenant-Governor of the Province of New York	46
John Wentworth, Governor of the Province of New Hampshire	98
Frances Deering Wentworth, Wife of Governor John Wentworth	100
George Clinton, Governor of the State of New York	360
The Old Constitution House, at Windsor	382
Statue of Ethan Allen at the Entrance to the Capitol at Montpelier	456

THE BIRTHPLACE OF VERMONT

CHAPTER I

THE BEGINNING

“In the beginning God created the heaven and the earth.” . . .

From the time referred to in that first entry in a standard work of history—an authority too little consulted and known in these days—the writer of this chapter takes the liberty of skipping over years of mighty importance and landing himself in England in the thirteenth century Anno Domini. There he pauses long enough to mark the first item of a coincidence, viz., that in the year of our Lord 1215 King John at *Runnymede* near *Windsor* granted the *Magna Charta*. Four hundred and sixty-two years later, in the year 1777 and on the Continent of North America, at a new *Windsor* famed afterwards for its own *Runnymede*,¹ was executed and delivered another *Magna Charta*—the first Constitution definitely to prohibit human slavery. On the basis of the latter occurrence alone the history of the new Windsor is worthy of being written, and that history had its real beginning in a great grant, made in woefully indefinite terms, by King Charles the Second of England to James, Duke of York, in the year 1664. If the reader will proceed slowly through the following extract from that document he will catch the drift:

“Charles the Second By the grace of God King of England France and Ireland Defender of the faith &c to All to whome these presents shall come Greeting Know Yee that wee for divers good Causes and Consideracons us thereunto movinge Have of our especiall grace certaine knowledge and meere

¹ The country seat of William Maxwell Evarts.

mocon given and Graunted And by these presents for us our heires and Successors doe give and Graunt unto our dearest Brother James Duke of Yorke his heires and Assignes All that part of the Mayne land of New England begining att a certaine Place knowne by the name of St Croix next adioyning to New Scotland in America and from thence extending along the Sea Coast unto a certaine Place called Petuaquine or Pemaquid and soe upp the River thereof to the furthest head of the same as it tendeth Northwards and extending from thence to the River Kinebequi, and soe upwards by the shortest course to the River Cannada Northward And alsoe all that Island or Islands comonly called by the severall name or names of Matowacks or Long Island scituate lyeing and being towards the west of Cape Codd and the Narro Higgansetts abutting upon the Mayne land betweene the two Rivers there called or known by the severall names of Conectecutte and Hudsons River Together with the said River called Hudsons River and all the land from the west side of Conectecutte River to the East side of De la Ware Bay and alsoe all those severall Islands called or known by the name of Martin Vinyards and Nantukes otherwise Nantukett . . .”¹

Note the inclusion of “all the land from the west side of Conectecutte River to the east side of De la Ware Bay.” Remember those words. They will occur again.

In this grant King Charles created a source of annoyance—sometimes mounting to agony—for the settlers who in the next century moved into the region now known as Vermont. Think not too harshly of him, for Vermonters owe him much. Bear in mind that in his reign knowledge of American geography was very limited and the maps of America were very inaccurate. It was never his intention to distress any “Green Mountain Boy.” With many human failings and grave faults, King Charles the Second had kindness and he had other agreeable qualities that, had he lived in later times, might have made him welcome in that cultivated and convivial company of wits whose revelries “from Greenfield in Massachusetts to Windsor in Vermont” were deemed important enough for men-

¹ *N. Y. State Senate Reports for 1873, No. 108.*

tion by such serious American statesmen as Jeremiah Mason¹ and Daniel Webster.² Yes, King Charles had the making of a good fellow:

"Here lies our Sovereign Lord the King,
Whose word no man relies on:
He never said a foolish thing
And never did a wise one."³

King Charles's biography is worth persual and may be read with profit and impunity by Vermonters of mature years, including even such virtuous persons as Progressives or Progressive Republicans. Possibly it contains too much of substance to suit the taste of disciples of the New Freedom. Unregenerate Vermont Tories are doubtless already familiar with it, but be this as it may and waiving such flippant reflections, it is safe to assert that had it not been for that royal gallant's grant to the Duke of York and the troubles that sprang therefrom Vermont might never have become the independent State it was and is, the new Windsor might never have given to the world the second *Magna Charta*,⁴ and—fate of fates—this chapter of history might never have been written for the edification of the chosen few to whom its subject appeals. Vermont has done well, albeit willy-nilly and unconsciously, in preserving the town names of "Charleston," "Grafton," "Richmond," "St. Albans," and "Plymouth," thus keeping alive King Charles's name and the names of four of his sons.⁵

In thus ascribing to King Charles the paternity of Vermont the writer is aware that historians have hitherto failed to recognize that important truth, but the fact is sufficiently

¹ *Memoir of Jeremiah Mason*, p. 28.

² *Id.* p. 402.

³ *Lives of the Rakes*, vol. I, p. 202.

⁴ Perhaps, in deference to Sir William Blackstone, we should have said the "third" *Magna Charta*, for he regarded the passage of the Habeas Corpus act and the mitigation of the rigors of the feudal system (both of which reforms took place in the reign of Charles II) as having given to Anglo Saxons the "second" *Magna Charta* (Bl. Com. last chapter).

⁵ The Duke of Grafton, born of Barbara Villiers, Countess Castlemaine; the Duke of Richmond, born of Louise de Kéroualle, Duchess of Portsmouth; the Duke of St. Albans, born of the noted actress Nell Gwyn; the Earl of Plymouth, born of Catharine Peg.

obvious to justify both this addition to the list of King Charles's otherwise numerous progeny¹ and a corresponding amendment to the written history of Vermont.

¹ "It was said in jest of our Charles II," remarked Horace Walpole, "that he was the real *father* of his people, so many of them did he beget himself."—(*Horace Walpole's Letters*, vol. VII, p. 90).

CHAPTER II

THE SETTLEMENT OF VERMONT

THE settlement of Vermont came far later than the early settlements in New Hampshire, Massachusetts, Rhode Island, Connecticut, the Hudson valley region of New York, and the St. Lawrence region of Canada. Champlain, in 1609, had viewed Vermont from the west. In the autumn of 1677 the Indians took a band of miserable captives from Deerfield and Hatfield up the Connecticut River as far as the Suaro Maug or Squaro Maug¹ River (perhaps the Wells River) and thence across Vermont to the Champlain Valley and into Canada. The pitiful story of the journey of these captives is preserved in the narrative of Quentin Stockwell, one of their number, which was published in Increase Mather's *Essay for the Recording of Illustrious Providences* in 1684, in Richard Blome's *Present State of His Majestie's Isles and Territories in America* in 1687 and in *Bradford Club Series*, No. 1 in 1859. This narrative is worth the while of Windsor people to read because, if for no other reason, it is the story of the first white persons who are known to have been within sight of Ascutney Mountain and the virgin forests of Windsor.

Early in the year 1704 the French officer, Major Hertel de Rouville, traversed Vermont from west to east, descended the Connecticut on the ice for an attack on Deerfield, and returned to Canada with captives by somewhat similar routes. Other subsequent attacks by the French and Indians on settlements in Massachusetts and New Hampshire and punitive or scouting expeditions from those colonies involved occasional crossings and recrossings of Vermont from 1704 to the date of the Treaty of Utrecht in 1713; but, as our first Vermont historian, the Reverend Samuel Williams, relates, it was not until the year 1724 that the Provincial Government of Massachusetts, conceiving its own jurisdiction to extend further north than the present northern boundary of Massachusetts, built Fort

¹ Possibly, also, "Squaw Maug."

Dummer within what is now the town¹ of Brattleboro. Although this fort or block-house has long since disappeared, the settlement at and about it has been regarded as permanent; and it may be accepted that the immediate vicinity of Fort Dummer has been occupied by white inhabitants continuously since 1724.

On the other side of the Green Mountains, on the eastern shore of Lake Champlain, at Chimney Point, within what is now the town of Addison, the French established a trading-post in 1731; but the inhabitants abandoned it in 1759, before the advance of General Jeffery Amherst toward the close of the war between England and France. It is possible that there were a few settlers in Pownal as early as 1760. The settlement of Bennington began in 1761.

In the Connecticut valley, following the establishment of Fort Dummer, Sartwell's Fort and Bridgeman's Fort were built within the present town of Vernon—the former in 1737;² the latter probably in the same year—and settlement also progressed northward from Fort Dummer as far as Charlestown, then called Number Four, on the east bank of the river, and as far as Westminster on the west bank. Zadock Thompson, that mighty gatherer of Vermont traditions and historical items, got hold of a story that Westminster was settled in 1741. As a matter of fact, some buildings were erected there four years before that date; but the first settlers of Westminster, like their contemporaries at Number Four, were forced temporarily to vacate their homes because of the Indians. Putney and Fulham (Dummerston) are also among the oldest settlements in Vermont. There were squatters within the present limits of Springfield in 1752 or 1753.

For the welfare of Fort Dummer and its neighbors the General Court of Massachusetts in 1724 voted that "Dr. Mather, Mr. Coleman, Mr. Sewall and Mr. Wadsworth be desired to procure a person of gravity, ability and prudence" to be sent as chaplain for the Fort and upon him was laid the injunction to "instruct the Indian nations residing thereabouts in the true Christian religion." In the same month a committee ap-

¹ The word "town" is used here in the New England sense, meaning "township."

² B. H. Hall's *Eastern Vermont* fixes this date as 1740.

pointed by the General Court reported as a further helpful influence for Fort Dummer "That four barrels of rum be sent to Capt. Jon^a Wells, at Deerfield, to be lodged in his house, and to be delivered to the commanding officer at the Block-House as he sees occasion to send for it, so that he may be enabled to give out one gill a day to each Indian, and some to his other men as occasion may require." Thus early our Puritan ancestors, "those who profess and call themselves Christians,"¹ saw to it that "rum and religion" should reach Vermont promptly and simultaneously.

Of the scouting parties from Fort Dummer, several of which proceeded as far as the Great Falls² in the years 1724 and 1725, and one of which in 1730 reached the mouth of Wells River, it is not necessary to tell in this history. Nor is it within the scope of this work to give accounts of the struggles with the Indians and the frequent tragedies in the territory between Fort Dummer and Number Four. That story, told piecemeal, by Zadock Thompson, may be found in his *Thompson's Vermont*. In a broader way and in livelier style, supported by extensive and scholarly research, Benjamin Homer Hall, in his *History of Eastern Vermont*, has covered the same ground; and here we may also mention with respect *A Windham County Battlefield: The Ambush at the Salmon Hole*, by John Elliot Bowman in the March, 1916, number of *The Vermonter*.

The stones erected on the north bank of Knapp's Brook by the roadside on the way from Felchville to Downer's and within the present township limits of Reading, mark the trail of Indians returning to Canada with captives taken at Number Four in the year 1754, and are the only monuments commemorative of Indian warfare in the vicinity of Windsor. The legend on the larger stone is as follows:

This is near the spot
that the Indians Encamp^d the
Night after they took Mr. Johnson &
Family Mr Laberee & Farnsworth

¹ *The Prayer-Book*, by Evan Daniel, p. 220.

² Bellows Falls.

August 30th 1754 And M^{rs}
 Johnson was Deliver^d of her Child
 Half a mile up this Brook.
 When troubl^s near the Lord is kind
 He hears the Captives cry
 He can subdue the savage mind
 And Learn it sympathy.

The smaller stone was probably intended to be placed "Half a mile up this Brook," for the inscription reads:

On the 31st of
 August 1754
 Capt James
 Johnson had
 a Daughter born
 on this spot of
 Ground being
 Captivated with
 his whole Family
 by the Indians.

Many a modern reader of these inscriptions has smiled at the word "captivated," but it represents common eighteenth-century usage. It not only appears in the official report of the raid on Charlestown (Number Four), but the learned Doctor Williams, a graduate and former professor at Harvard College, who is described by Mr. E. P. Walton as the most learned man in Vermont, used the verb "captivate" in precisely the same sense.¹

For convenient reference on the next page is a table of Connecticut Valley towns on both sides of the river from the Massachusetts line as far north as Newbury and Haverhill, arranged in geographical order and giving the respective dates of settlement so far as the writer has succeeded in ascertaining them. When two dates are placed against one town name, two dates of settlement are indicated, the earlier settlement having been abandoned because of Indian attack. From the table it will appear that, except for the wilderness to the west, Windsor could hardly be called a frontier settlement at any time.

¹ Williams, *History of Vermont*, 2d ed., vol. II, pp. 158, 235.

	1762 Newbury	Haverhill	1764
	1765 Mooretown (Bradford)	Piermont	1770
	1766 Fairlee	Orford	1765
	1764 Thetford	Lyme	1764
	1763 Norwich	Hanover	1763
	1764 Hartford	Lebanon	1763
Woodstock	1763 Hertford	Plainfield	1764
1768	(Hartland)		
Reading	1764 Windsor	Cornish	1765
1772			
Cavendish	1766 Weathersfield	Claremont	1762
1769	1753, 1761 Springfield	Charlestown	1740, 1747
Chester			
1763	1753, 1760 Rockingham		
	1739, 1751 Westminster	Walpole	1749
	1744, 1752 Putney		
	1752 Fulham	Westmoreland	1752
	(Dummerston)		
	1724 Brattleboro	Chesterfield	1761
	1724 Hinsdale	Hinsdale	1724
	(Vernon)		

Massachusetts Line

CHAPTER III

BENNING WENTWORTH

IN the year 1740 the boundary between the provinces of Massachusetts and New Hampshire had been fixed and its line may be determined by the following extract from the Commission which King George the Second issued to Benning Wentworth, of New Hampshire, on July 3, 1741:

“George the Second by the Grace of God, of Great Britain, France and Ireland King, Defender of the Faith &c

“To our Trusty and Well beloved Benning Wentworth Esq^r Greeting: Know You that We reposing especial Trust and Confidence in the prudence, Courage and Loyalty of you the said Benning Wentworth Out of our Especial Grace, Certain knowledge and Meer Motion, have thought fit, to Constitute and appoint and by these presents do constitute and appoint you the said Benning Wentworth to be our Governor and Commander in Chief of our Province of New Hampshire within Our Dominions of New England in America, bounded on the south side by a similar curve line pursuing the Course of Mer-rimac River, at three miles distance, on the north side thereof, beginning at the Atlantick Ocean & ending at a point due north of a place called pautucket Falls, and by a Straight Line drawn from thence due West Cross the said River *'till it meets with our other Governments*, and bounded on the North side by a line passing up through the Mouth of Piscataqua Harbour, and up the Middle of the River, to the River of Newich Wanonck, part of which is now called Salmon Fall, and through the Middle of the same to the Furthest head thereof, and from thence North two degrees Westerly, untill one hundred and twenty miles be finished from the Mouth of Piscataqua Harbor aforesaid, or *untill it meets with our Other Governments.*”

What and where were “our other governments” that bounded Governor Benning Wentworth’s jurisdiction on the west? The eastern limits of the Province of New York had

never been publicly proclaimed in exact terms by the Crown or by other authority,¹ nor, as a matter of fact, had there been a definite settlement of the western boundary of the Province of Massachusetts. How was Wentworth to interpret his commission? Other royal governors in Benning Wentworth's place might have asked instructions from their sovereign, but Benning Wentworth undertook to determine the question for himself.

American born, of good family, of such education as went with graduation at Harvard in the class of 1715, Benning Wentworth had had nearly twenty-five years of experience as a man of business in the town of Portsmouth. He had traveled in Europe, he had been in public office, he knew men, and he had engaged in large transactions. Prospering in a worldly way, he accumulated immense wealth. Fond of possessions and display, he maintained a great mansion at Little Harbor in Portsmouth that has found its place in story, while the splendor of his coach and horses dazzled the good people of the New Hampshire countryside. Having been a widower since the year 1755, he married in 1760 Martha Hilton, a young woman of obscure parentage who had been brought up in the Wentworth home. Longfellow's *Lady Wentworth* takes for its subject this wedding and forms a pleasant historical chapter which all who dwell on the former New Hampshire Grants should know.

Benning Wentworth is rated by the historian Jeremy Belknap as honorable in business, hospitable and kindly to his friends but sometimes crusty to others, especially when feeling the twinges of gout from which he suffered and which he had doubtless earned. Belknap thought it worth while to ascribe to Benning Wentworth an austerity of manner and to venture the opinion that it was acquired in Spain.

To Dartmouth College Benning Wentworth gave five hundred acres of land on which the college buildings now stand:

¹ Timothy Walker, in an address to the inhabitants of the New Hampshire Grants under date of July 18, 1778, made an excellent statement of the situation as follows: "The King had never told his Governor of New Hampshire, in express terms, how far west he should go, and there stop, nor his Governor of New York how far east he should go and then cease, . . ." (5 *Gov. & Coun.* 523.)

while to Harvard, his alma mater, through his initiative and influence came an appropriation of money from the Province of New Hampshire.

During his long term as governor of New Hampshire, Benning Wentworth did nothing brilliant: he was not a brilliant man. He believed that those of the largest financial interests were the best fitted to govern, and his appointments reflected that view. His belief that "public office is a public trust" he elaborated and illuminated by the ever-popular amendment that public office is also a private opportunity. In this he was honored by the emulation of his eminent contemporary and rival, Doctor Cadwallader Colden, lieutenant-governor of the Province of New York, while Doctor Benjamin Franklin, as clerk of the legislative assembly of Pennsylvania, afforded to both an example upon which they grandly improved. Viewed in the light of the above-mentioned amendment, Benning Wentworth's career as royal governor of the Province of New Hampshire was a success.

It was not until the ninth year of his administration as governor that Benning Wentworth determined to stretch the wording of his commission to the limit of its breadth, to seek the utmost personal advantage from its terms, and to begin that policy which made his name very important in the history of Vermont. Chancing it that he might possibly justify an assertion of jurisdiction to within twenty miles of the Hudson River (which would be to a line running northerly approximately in extension of the present western boundaries of Connecticut and Massachusetts), he proceeded on January 3, in the winter of 1749-1750,¹ to grant to several Portsmouth neighbors of his and some others, not forgetting Benning Wentworth, a township six miles square, comprising what is now Bennington. The township was called Bennington in the text of the grant and was named so, as the historians delight in telling us, by the governor himself, with special reference to his own prenomens. There is a popular belief, also, that he invented or "coined" the name, but he cannot be credited with invention or originality in that particular, since already there were two Benningtons in England.

¹ January 3, 1749, old style.



courtesy of the State Department, New Hampshire

BENNING WENTWORTH
GOVERNOR OF THE PROVINCE OF NEW HAMPSHIRE
From a painting in the State-house, Concord, New Hampshire

It is pretty obvious that Benning Wentworth made this grant for political and personal reasons. It is possible also that he had in mind making a test case to establish the extent of his jurisdiction. The locality of the grant was a wilderness, and, as before stated, settlers did not move into Bennington township until nearly a dozen years later. The Bennington grantees had no desire to leave their homes and seclude themselves in the backwoods. Already there were settlers along the west bank of the Connecticut as far north as the present town of Westminster who had acquired lands under the supposed authority of Massachusetts Bay, who desired to have their titles confirmed and who might well have claimed his first attention; but he chose to plant his surveyor's stakes first as far west as he dared to go. All the circumstances attending Benning Wentworth's grant of the township of Bennington and the correspondence relating to the subject, so far as such correspondence has been preserved, are of interest.

The location of the new Bennington seems to have been planned by Governor Wentworth some months in advance of the date of the grant; for it appears that in the autumn of 1749 he personally sent one Mathew Clesson with an assistant and several chainmen to survey the lines for a township on the ground where the grant was subsequently made. Clesson's monuments are mentioned in the description of the Bennington grant and the report of his survey is attached to the charter. That Benning Wentworth must have had some doubt as to how the Province of New York would view the matter is fairly to be inferred from the fact that as early as May 23, 1749, Governor George Clinton of New York had reported to the Lords Commissioners of Trade and Plantations that "the Boundary between this Province & New Hampshire is disputed."¹ The doubt is fully disclosed in Wentworth's letter to Governor Clinton under date of November 17, 1749. In this letter, after mentioning that his commission authorized him to grant townships and that he was receiving applications for township grants, Governor Wentworth stated that he contemplated granting townships near the border of the Province of New York and would therefore like to be advised how far

¹ 7 *Lond. Doc.*, 507-510.

east the Province of New York extended and what grants had been made by that province to the northeast of Albany. He closed his pleasantly phrased and fairly spelled letter with a diplomatic offer to accommodate any of Governor Clinton's friends who might wish to become New Hampshire proprietors, and he enclosed a copy of that part of his commission which described the bounds of the Province of New Hampshire. No answer having been received in the meantime, Governor Wentworth informed his Council on January 3 that Colonel William Williams and others had applied for the grant of a township in the western part of the province, whereupon the Council immediately voted that the application was entitled to the Governor's favorable consideration and the grant of Bennington, bearing date January 3, 1749 (old style), was signed by the Governor. It was recorded eight days later.

The Honorable George Clinton, royal governor of the Province of New York and an admiral of the British navy, should not be confused with the Revolutionary patriot, George Clinton, who became governor of New York after the assumption of American independence. The former was a son of the sixth Earl of Lincoln, was an easy-going gentleman without business training and had secured his colonial appointment for the double purpose of having a pleasant time and making a fortune. "The good-natured Governor Clinton," as he was called by that competent critic, Doctor Cadwallader Colden, was at a great disadvantage when it came to dealing with a thrifty New Hampshire trader like Governor Benning Wentworth. That portion of the correspondence between these two royal governors which has been preserved may be found in the fourth volume of the *Documentary History of New York*.¹ A study of it is almost essential to an understanding of the famous controversy over the New Hampshire Grants.

Not before January 9² did the Honorable George Clinton

¹ See also *The New York Narrative of 1773*, Appendix; Dr. Samuel Williams's *Rural Magazine*; Slade's *Vermont State Papers*; Bouton's *New Hampshire Province and State Papers*, vol. X; *Governor and Council*, vol. VIII, Appendix I.

² No letter of this date has been preserved, but it is referred to in the record of the correspondence. Slade, in his *Vermont State Papers*, substitutes for the reference a reference to a later letter. Slade's version was adopted in the *New Hampshire State Papers* and in *Governor and Council*.

get around to acknowledging Governor Wentworth's communication of the previous November. What Governor Clinton wrote on that day is not known. The letter did not reach Governor Wentworth until about ten days after the Bennington grant had been signed and delivered. On April 3 it occurred to Governor Clinton that it would be wise to place Governor Wentworth's letter of November 17, 1749, before the New York Provincial Council. That body was not slow to see that the letter required an answer, and ordered that Governor Clinton acquaint Governor Wentworth with the information that the Province of New York was bounded on the east by the Connecticut River, "*the letters patent from King Charles the Second to the Duke of York expressly granting all the lands from the West side of Connecticut River to the east side of Delaware bay.*" This reply Governor Clinton transmitted on April 9, 1750, and thus made the great issue which, with changing shapes and changing parties, finally brought forth the State of Vermont.

Governor Wentworth received the news without emotion. He calmly replied under date of April 25 that New York's position would have been satisfactory to him if the Colony of Connecticut and the Province of Massachusetts Bay had not extended their respective western boundaries many miles west of the Connecticut River. Under such circumstances Governor Wentworth observed that he considered himself equally entitled to push New Hampshire's claims westward and he confessed to having already made the grant of Bennington. He begged to be told by what authority Connecticut and Massachusetts had asserted claim so far to the west, but pending the arrival of the answer he promised that he would make no further grants in the disputed territory. Governor Clinton wrote on June 6, explaining that in the case of Connecticut an agreement with New York had been arranged in or about 1684, had been confirmed by King William, and that the lines were run and boundaries marked in 1715. As to Massachusetts, Governor Clinton presumed that its western claims rested merely on "intrusion" and the negligence of the New York government. Remarking on his surprise that Governor Wentworth should have made the grant without waiting

longer for an answer to the letter of November 17, he suggested that unless the grant could be recalled he would feel constrained to report the matter to the King.

The withdrawal of the Bennington grant Governor Wentworth thought impossible, but with seeming candor and business sense he wrote to Governor Clinton on June 22, proposing that both governors report the matter to His Majesty and abide by whatever decision should be obtained from the Crown. If the decision should be adverse to his contentions, Governor Wentworth admitted that the Bennington grant "will be void, of course." His apology for issuing the Bennington grant so precipitately he based on the plea that he thought he had given to Governor Clinton enough time by writing on November 17 and by passing the grant on January 3.

The proposal of a reference to the King was agreeable to Governor Clinton, who further suggested that they exchange copies of the arguments to be submitted. In this Governor Wentworth concurred and promised that as soon as he had sent his statement of the case to England he would send a copy to Governor Clinton. This promise, as the New York officers charged, Governor Wentworth failed to keep. In fact, the first news the New York authorities received of Governor Wentworth's having submitted his case (which he did under date of March 23, 1751) came by letter from England. According to a statement in Governor Tryon's proclamation of December 11, 1771, the New York side of the case was submitted to England "about the close of the year 1751."

The correspondence between Wentworth and Clinton shows one slip on Wentworth's part in the following italicised admission with regard to the Bennington charter: "There is no possibility of vacateing the grant as you desire, but if it falls by His Majesty's determination in the government of New York, *it will be void of course.*" A slip on the part of Governor Clinton was greater and more disastrous: from his trust in his distinguished correspondent he neglected to get from him a written stipulation that no more grants should be made in the disputed territory until the King's decision. Nor was this omis-

sion on the part of Governor Clinton remedied by his subsequent proclamation in 1753, warning officials of New Hampshire against attempting to exercise jurisdiction in the disputed territory.

CHAPTER IV

CADWALLADER COLDEN

FROM the time of the interchange of letters mentioned in the preceding chapter a controversy was on—a controversy that was finally settled only by Vermont's admission to the Union in 1791. No one book gives anything like an exhaustive history of this conflict, but, taking all things into account, perhaps the best sketch yet written may be found in *Thompson's Vermont*. It is not within the scope of this history of Windsor to cover in detail the narrative or legal history of that struggle, yet since Windsor and the men of Windsor played important parts in the controversy, and since upon it depends so largely the historic fame of Windsor, it will be necessary and perhaps not uninteresting in this and subsequent chapters to follow fairly closely upon its course.

In the beginning it should be understood that Governor Benning Wentworth had some ground for believing that his jurisdiction extended sufficiently far to the westward to include the township of Bennington. Commissioners from the Province of New York and the Colony of Connecticut in the year 1715 had fixed a boundary near where now runs the present boundary between the States of New York and Connecticut, and in that settlement there was what seems express recognition of the fact that the domain of the Province of Massachusetts Bay extended as far west as the western boundary of Connecticut. Moreover, in 1744, the King's Council had adjudicated that Fort Dummer was not within the jurisdiction of Massachusetts but was within the jurisdiction of New Hampshire, and Fort Dummer was *west* of the Connecticut River and *north* of the northern boundary of Massachusetts. There were also several published maps that gave color to the Wentworth claim. None of these points was made by Governor Wentworth in his correspondence, although all three were made much of by the Vermont advocates in later years.

These points, however, were by no means conclusive. Granting that the western boundaries of Connecticut and Massachusetts had been conceded by New York, it did not follow that New York had conceded to New Hampshire a boundary equally far to the west. Nor was the adjudication respecting Fort Dummer necessarily final as to New York. That adjudication came solely as the result of a dispute between New Hampshire and Massachusetts. Therefore New York, not having been a party to the case, might well assert that the decision should not be binding as to her.

There doubtless was, as the historian Jeremy Belknap observes, from as early a date as 1740, when the boundary between Massachusetts and New Hampshire was settled, a popular belief on the part of New Hampshire colonists that New Hampshire's territory extended as far west as a line twenty miles east of the Hudson River.¹ Yet popular beliefs, then as now, should not always be treated as sound. Without attempting to decide the question of New Hampshire's lawful western boundary, it is worth while to note that according to at least one enlightened contemporary opinion in Massachusetts, the Connecticut River marked the western limit of New Hampshire's domain. In a letter written by the learned Doctor William Douglass of Boston to Doctor Cadwallader Colden under date of May 12, 1740, the writer says: "We are advised that our [Massachusetts] Province line with New Hampshire is lately determined at home very much to our loss. . . . New Hampshire having obtained out of our claim a very large tract of land *reaching to New York E line* and is about 60 miles from N to S, *its N line 65 miles, its S line about 90 miles.*"² It was therefore the understanding of Doctor Douglass that New Hampshire had obtained by the decision of the Crown a slice off Northern Massachusetts of a maximum length of ninety miles from east to west. Since along the present northern boundary of Massachusetts from the Atlantic seaboard to the Connecticut River is a distance of ninety miles, it is clear that Doctor Douglass thought that "New York E line" was at the latter point.

¹ Belknap's *History of New Hampshire*, vol. II, p. 133.

² *N. Y. Hist. Soc. Coll.*, 1918, p. 204.

Although Governor Benning Wentworth's letters were addressed to the governor of the Province of New York, and although the governor of that Province signed the letters in reply, it is a reasonable conjecture that a larger historical figure than either of them was Governor Wentworth's real New York opponent. Had this opponent been in full command in 1749 and 1750, the history of Vermont might have been very different. Though then behind the scenes, he came to the front and was in the open a few years later, and in him Governor Benning Wentworth found an adversary worthy of his most serious and respectful attention.

Scotsman, born in the year 1688, graduate of the University of Edinburgh in 1705, physician by profession and one of the really learned men among the American colonists, Doctor Cadwallader Colden came from Pennsylvania to New York at the invitation of Governor Robert Hunter in the year 1718, and almost directly was installed as surveyor-general of the Province. In that office for forty-five years, as a member of the Provincial Council from 1720, as President of the Council from 1760, and as lieutenant-governor from 1761, he served under the following royal governors: Robert Hunter in 1719, William Burnet from 1720 to 1728, John Montgomerie from 1728 to 1731, William Cosby from 1732 to 1736, George Clinton from 1743 to 1753, Sir Danvers Osborn in 1753, Sir Charles Hardy from 1755 to 1757, General Robert Monckton from 1761 to 1765, Sir Henry Moore from 1765 to 1769, the Earl of Dunmore from 1770 to 1771, and William Tryon from 1771 to the American Revolution. During the frequent absences of his superiors after the death of Lieutenant-Governor DeLancey on August 4, 1760, and between the terms of their successive tenures, Doctor Cadwallader Colden was the acting governor. Even before the date last mentioned there is much to indicate that on account of his long acquaintance with the province domain his was the firmest hand in territorial matters affecting the Province of New York. In touch with England and with affairs at home, exercising a masterful control in the Provincial Council of New York, he had the ear of the King and the King's Council and succeeded in strengthening his own position by royal authority to a degree that made him more

than a match for Governor Benning Wentworth or those interested under the Wentworth titles.

Colden's correspondence shows him a man of resource and assurance, vigilant, prompt, grasping, and plausible. He had friends at the Court of St. James's whom he did not hesitate to enlist in his behalf. Vermont historians assume him to have been unscrupulous. Perhaps he was. He promoted as persistently as anybody the policy of harshness and injustice with which his province treated the holders of New Hampshire titles. But if one reads dispassionately the letters of Cadwallader Colden there may well arise in the candid reader's mind the doubt whether Colden could not ably have defended himself against most of the charges with respect to Vermont. At the risk of being rebuked by some heated Hiland Hall of the future, the writer of this book, departing from the usual custom of Vermont historians, will not heap abuse on Doctor Cadwallader Colden.

To literature and science Colden was a large contributor for his time. His correspondents included the learned and scholarly men of the world. With Benjamin Franklin he exchanged letters on scientific and philosophical subjects of mutual interest. To him Franklin wrote under date of November 4, 1743: "I cannot but be fond of engaging in a correspondence so advantageous to me as yours must be." In politics an unbending royalist, defiant of popular clamor, daring as would no modern candidate for office to express his distrust of popular votes, Cadwallader Colden stands as the type from which Alexander Hamilton developed—a type too bold, too rigid, too extreme for his time or for the years that followed.

To two men—Benning Wentworth and Cadwallader Colden—Windsor and the other older Vermont towns may look back as at somewhat hard masters, essential factors in bringing forth Vermont, wise in their day and generation, entirely human, by no means always sympathetic with the people they governed yet not wholly lacking in charity. They were figures of distinction in the days of Vermont's infancy. They stand, next to King Charles the Second, as responsible for the existence of Vermont. However little we of to-day may be disposed to thank them, it is not displeasing to reflect that they

were personages of character, of abilities; picturesque and full of interest. It is regrettable that American histories have given such scant notice to those men among the leading Colonial characters who did not happen to become champions of American independence.

CHAPTER V

THE NEW HAMPSHIRE GRANT OF WINDSOR

ALTHOUGH it was at Governor Wentworth's suggestion that the difference between himself and Governor Clinton was referred to the King, and although Governor Wentworth advised Governor Clinton that the New Hampshire Council "were unanimously of the opinion not to commence a dispute with your Excellency's Government respecting the extent of the western boundary of New Hampshire until His Majesty's pleasure should be further known," the businesslike Benning Wentworth did not feel himself obliged to suspend the granting of townships west of the Connecticut River pending the decision of the case. While not immediately attempting to grant more townships as far to the west as Bennington, he did grant, in the next five years, without further instructions from England and without further communication with the Province of New York, no less than sixteen more charters for towns within the present State of Vermont. These were for Halifax in 1750, Marlborough and Wilmington in 1751, Westminster and Rockingham in 1752, Putney, Fulham (Dummerston), Brattleboro, Hinsdale (Vernon), Fane (Newfane), Townshend, Stamford, and Woodford in 1753, Thomlinson (Grafton), Flamstead (Chester), and Guilford in 1754. It is doubtful if the issuance of these sixteen grants became known to the New York authorities for some years. War between Great Britain and France involved the American colonies in 1754, and the region of the grants having become again exposed to invasion by the French from Canada and no longer attractive to settlers, investors, or speculators, the demand for grants within the territory completely ceased. So the question of province boundaries was temporarily and unfortunately neglected by the authorities on both sides of the Atlantic until after the conquest of Canada in 1760, and not a single additional township grant, save one, was made until July 4, 1761.

The one exception was the grant of the town of Pownal in

January, 1760, and in some respects it was notable. According to *Thompson's Vermont* there were, at the date of this grant, four or five Dutch settlers within the Pownal limits, claiming under the ancient New York "Hoosick Grant" of 1688. Their presence under claim of a New York title and the fact that a New Hampshire grant in that locality, bounded "West on New York Line," would make a corner with the northwestern corner of Massachusetts, and so define the extreme southern and western lines of his claims of jurisdiction, may have induced Governor Benning Wentworth to make a grant at that place at that time. It has been stated that this township was named for Governor Thomas Pownall, of Massachusetts, but it is worth noting that the secretary for the Lords Commissioners for Trade and Plantations in England, a body which exercised large control of affairs in the Colonies and which was the very body to advise the King in the matter of the pending boundary question, was one John Pownall, and, furthermore, that on February 13, 1755, this same John Pownall had certified a map of the British and French dominions in North America on which was indicated by dotted line a boundary between New Hampshire and New York, running north from the northwestern corner of Massachusetts to Lake Champlain. This dotted line would place both Pownal and Bennington within the Province of New Hampshire. Surely, therefore, an influential man in England who had certified such a helpful map and was in a position to lend aid to the New Hampshire contention was worthy of a compliment from Governor Benning Wentworth. But the governor took no chances with so slight and unsubstantial a tribute as a mere compliment. With great worldly wisdom he provided in the grant of the township not only one share for Governor Thomas Pownall, of Massachusetts, but another for Secretary John Pownall, of the Lords Commissioners for Trade and Plantations.

Historians seem to agree that the building of the Crown Point Road and its use for military purposes brought a wider knowledge of the Vermont country, and, thereby, on the suspension of hostilities in 1760, created a new demand for township grants in the region. This road, which was built by Colonel John Goffe and a New Hampshire regiment under

orders of General Jeffery Amherst, was completed in 1760. Its eastern end was on the west bank of the Connecticut River at Wentworth's Ferry landing, a point some two miles north of the fort at Number Four (Charlestown): its western end on Lake Champlain opposite Crown Point.

Colonel Joseph Blanchard, of Dunstable, New Hampshire, in an affidavit which forms an appendix to the *New York Narrative of 1773*, tells how he was employed by Governor Benning Wentworth to make the survey on which the governor was to conduct a true land-office business in township grants. In the year 1760 Governor Wentworth sent Colonel Blanchard to the Connecticut River to survey both banks of the river northward from Rockingham. Starting at the northeast corner of Rockingham, Colonel Blanchard pursued his survey to the northern end of the "Intervale of Cohass," as he called it, a distance of about sixty miles, and every six miles he left a monument. Six miles from his starting point on the west bank of the Connecticut he probably marked a tree with the figures 1 and 2 to indicate the end of his first six-mile course and the beginning of his second. This would be the monument for the northeast corner of Springfield and the southeast corner of Weathersfield. Six miles further up the stream he marked a "black ash tree" standing on the west bank of the Connecticut with the figures 2 and 3 to indicate the end of his second course and the beginning of his third. This "black ash" is the tree that was afterwards mentioned as the monument for the southeast corner of Windsor in the New Hampshire grant of Windsor township. Measuring off still another six miles to locate the northeast corner of the township, Colonel Blanchard marked a maple-tree with the figures 3 and 4. That tree, also, is mentioned in the description of the township of Windsor in the New Hampshire charter and is identified as a maple in the paper set forth at page 60. Though other white men may have been on Windsor soil before the expedition of Colonel Blanchard and his chainmen, his expedition of 1760 is the first that is positively known to have set foot there and tramped those matchless Windsor meadows.

Colonel Blanchard in his affidavit tells how he made a re-

turn of his survey to Governor Wentworth and how later, at the governor's request, he plotted out on the map a number of townships, each six miles square, "three tier deep from the banks of the river." He states it as his belief that without obtaining any further survey Governor Wentworth presently assembled the Province Council, procured the Council's advice that grants of all that region should be made, and did grant charters for fifteen or sixteen of the townships that Colonel Blanchard had laid out on the map. The only other survey in the neighborhood that Colonel Blanchard had heard of was a line which was run some time later by Robert Fletcher from the Connecticut River along the south lines of Windsor, Reading, and Saltash (Plymouth) to Otter Creek.

There is a close similarity between all the township grants of this period. They were made on printed forms in which were blank spaces for a description of boundaries, the name of the town, the date of the initial town meeting and other particulars which varied in different cases and which necessarily had to be filled in in writing. Each charter reserved five hundred acres for Governor Benning Wentworth himself, one whole share for the Society for the Propagation of the Gospel in Foreign Parts, one share for the first settled minister of the Gospel, one share for a glebe for the Church of England, and one share for the benefit of a public school. Each grant bore the signatures of Benning Wentworth and the secretary of the Provincial Council. The names of the several grantees were written on the back.

In theory the procedure in obtaining one of these grants was orderly, systematic, and careful. Benning Wentworth's nephew, John Wentworth, who succeeded Benning as governor of the Province of New Hampshire in 1767, described his uncle's method of granting townships as follows: "Upon the petition of sixty or eighty men for a township of six miles square, q^t about 27,000 acres of land, which they are desirous to cultivate, the quantity is regularly surveyed and granted to the petitioners and their heirs forever."¹

In actual practice there was probably little trace of the formality which John Wentworth describes. Judge Oliver Willard, one of the first settlers of Hartland, testified on this

¹ 18 *N. H. Prov. St. & T. Papers*, pp. 560-577.

subject as an expert witness. He had been well acquainted with Governor Benning Wentworth and knew the governor's manner of making grants. Willard himself had been concerned in obtaining no less than five township charters, and he states that for two of them he made merely a verbal application on the strength of which the governor gave him a note to the secretary, who promptly issued the letters patent without any survey except that which Colonel Blanchard had already made and without consulting the Provincial Council as to the particular cases.¹ What Judge Oliver Willard could accomplish by verbal application was equally within the power of his mighty elder brother, Colonel Josiah Willard, of Winchester. It was the latter, as will shortly appear, who "sued out" the grant for the township of Windsor, and there is little doubt that he obtained it on his own initiative, probably on mere oral request, and without even mentioning the matter in advance to all of those whom he chose to be his associate grantees.

It was on July 6, 1761, that the charter of Windsor was issued under the Great Seal of the Province of New Hampshire, and on the same day came the charters for Reading and Saltash (Plymouth). These succeeded by two days the grants of Norwich and Hartford and were followed on July 7 by the grant of Killington (Sherburne), on July 8 by the grant of Pomfret, and on July 10 by the grants of Hertford (Hartland), Woodstock, and Bridgewater. All told, Benning Wentworth's grist of new townships for the year 1761 was fifty-eight. More followed in each of the next three years. In the text of the Windsor grant, which follows, the words *in italics* are those which were written in on the printed form.

"Province of New-Hampshire.

GEORGE The Third,

By the Grace of GOD, of Great-Britain,
France and Ireland, KING, Defender
of the Faith, &c.

"To all Persons to whom these Presents shall come, Greeting.

"Know ye, that We of Our special Grace, certain Knowl-

¹ 4 *Doc. Hist.* 428.

edge, and meer Motion, for the due Encouragement of settling a New Plantation within Our said Province, by and with the Advice of Our Trusty and Well-beloved BENNING WENTWORTH, Esq; Our Governor and Commander in Chief of Our said Province of New-Hampshire in New-England, and of Our Council of the said Province; HAVE upon the Conditions and Reservations herein after made, given and granted, and by these Presents, for us, Our Heirs and Successors, do give and grant in equal Shares, unto Our loving Subjects, Inhabitants of Our said Province of New-Hampshire, and Our other Governments, and to their Heirs and Assigns for ever, whose Names are entered on this Grant, to be divided to and amongst them into *Sixty five* equal Shares, all that Tract or Parcel of Land situate, lying and being within our said Province of New-Hampshire, containing by Admeasurement, *23,500* Acres, which Tract is to contain *Something more than Six* Miles square, and no more; out of which an Allowance is to be made for High Ways and unimprovable Lands by Rocks, Ponds, Mountains and Rivers, One Thousand and Forty Acres free, according to a Plan and Survey thereof, made by Our said Governor's Order, and returned into the Secretary's Office, and hereunto annexed, butted and bounded as follows, Viz.

"Beginning at a black Ash Tree marked with the figures 2 and 3, from thence running North Seventy four degrees West six miles, from thence North Ten degrees East six miles, from thence South seventy five degrees East six miles & a quarter to a tree marked with the figures 3 and 4 standing on the bank of the River Connecticut six miles on a strait line South of the South East corner of Hartford, from thence down the River to the first bounds mentioned.

"And that the same be, and hereby is Incorporated into a Township by the Name of *Windsor*. And the Inhabitants that do or shall hereafter inhabit the said Township, are hereby declared to be Enfranchized with, and Intitled to all and every the Privileges and Immunities that other Towns within Our Province by Law Exercise and Enjoy: And further, that the said Town, as soon as there shall be Fifty Families resident and settled thereon, shall have the Liberty of holding Two Fairs, one of which shall be held on the

And the other on the _____ annually,
 which Fairs are not to continue longer than the respective
 _____ following the said _____ and that as soon as the
 said Town shall consist of Fifty Families, a Market may be
 opened and kept one or more Days in each Week, as may be
 thought most advantageous to the Inhabitants. Also, that the
 first Meeting for the Choice of Town Officers, agreeable to
 the Laws of our said Province, shall be held on the *first Wednesday in August* which said Meeting shall be Notified by *Samuel Ashley* who is hereby also appointed the Moderator of the
 said first Meeting, which he is to Notify and Govern agreeable
 to the Laws and Customs of Our said Province; and that the
 annual Meeting for ever hereafter for the Choice of such Officers
 for the said Town, shall be on the *Second Tuesday* of
 March annually, To HAVE and to HOLD the said Tract of
 Land as above expressed, together with all Privileges and Appurtenances, to them and their respective Heirs and Assigns
 forever, upon the following Conditions, VIZ.

“I. That every Grantee, his Heirs or Assigns shall plant
 and cultivate five Acres of Land within the Term of five Years
 for every fifty Acres contained in his or their Share or Proportion
 of Land in said Township, and continue to improve and
 settle the same by additional Cultivations, on Penalty of the
 Forfeiture of his Grant or Share in the said Township, and of
 its reverting to Us, our Heirs and Successors, to be by Us or
 Them Re-granted to such of Our Subjects as shall effectually
 settle and cultivate the same.

“II. That all white and other Pine Trees within the said
 Township, fit for Masting Our Royal Navy, be carefully preserved
 for that Use, and none to be cut or felled without Our
 special Licence for so doing, first had and obtained, upon the
 Penalty of the Forfeiture of the Right of such Grantee, his
 Heirs and Assigns, to Us, Our Heirs and Successors, as well as
 being subject to the Penalty of any Act or Acts of Parliament
 that now are, or hereafter shall be Enacted.

“III. That before any Division of the Land be made to
 and among the Grantees, a Tract of Land as near the Centre

of the said Township as the Land will admit of, shall be reserved and marked out for Town Lots, one of which shall be allotted to each Grantee of the Contents of one Acre.

“IV. Yielding and paying therefor to Us, our Heirs and Successors for the Space of ten Years, to be computed from the Date hereof, the Rent of one Ear of Indian Corn only, on the twenty-fifth Day of December annually, if lawfully demanded, the first Payment to be made on the twenty fifth Day of December, 1762.

“V. Every Proprietor, Settler or Inhabitant, shall yield and pay unto Us, our Heirs and Successors yearly, and every Year forever, from and after the Expiration of ten Years from the abovesaid twenty-fifth Day of December, namely, on the twenty-fifth Day of December, which will be in the Year of Our Lord 1772 One shilling Proclamation Money for every Hundred Acres he so owns, settles or possesses, and so in Proportion for a greater or lesser Tract of the said Land; which Money shall be paid by the respective Persons abovesaid, their Heirs or Assigns, in our Council-Chamber in Portsmouth, or to such Officer or Officers as shall be appointed to receive the same; and this to be in Lieu of all other Rents and Services whatsoever.

“In Testimony whereof, we have caused the Seal of our said Province to be hereunto affixed. Witness BENNING WENTWORTH, Esq; Our Governor and Commander in Chief of Our said Province, the *Sixth* Day of *July* In the Year of our Lord CHRIST, One Thousand Seven Hundred and *Sixty one* And in the *First* Year of Our Reign.

By His EXCELLENCY'S Command

With Advice of Council,
Theod^r Atkinson Sec^{ry}

B Wentworth

*Province of New Hampshire July 6th 1761
Recorded according to the Original under
the Province Seal.*

*Ppr Theodore Atkinson Sec^{ry}
Copy of Record*

Ex: Theodore Atkinson Sec^{ry}

“The Names of the Grantees in Windsor, viz.

Samuel Ashley	Joseph Hubbard	Ebenezer Stratton
Jacob Cummins	Nehemiah Houghton	Samuel Spalding
David Hubbard	Eleazar Harlow	David Stone Jun ^r .
Tho ^s Root	Augustus Wells	Isaac Rice
Simeon Smead	Jonathan Parkhurst	Stephen Ashley
Joseph Stevens	David Sanderson	Timothy Ruggles
Samuel Stone Jun.	Josias Holland	Tho ^s . Butterfield
Adonijah Rice	Joshua Lyman	Oliver Ashley
Manassa Diver	James Otis	M. H. Wentworth
George Field	Joseph Ashley	James Nevin Esq ^r .
Josiah Brown	Samuel Hunt Jun.	Samuel Wentworth of Boston
Nathaniel Mattoon	David Field	Clement March Esq ^r .
Simon Chamberlain	Jn ^o . Moore Jun ^r .	Josiah Willard Esq ^r .
Simon Cooley	Jn ^o . Cass	Zedekiah Stone
Joseph Root	Robert Harris	Samuel Ashley Jun ^r .
Levy Silvester	William Harris	
Jonathan Fairwell	Eliakim Spooner	
Cornelius Winslow	Arad Hunt	
Thomas Witt	Jn ^o . Murry	
Jn ^o Chandler	Jn ^o . Butterfield	
Simon Alexander	Tho ^s . Frink	
Moses Watkins	Ebenezer Wells	

“His Excellency Benning Wentworth Esq^r. a Tract of Land to contain Five Hundred Acres which is to be accounted two of the within Shares as marked B. W. in the plan, one whole Share for the Incorporated Society for the Propagation of the Gospel in foreign parts One whole Share for the first Settled Minister of the Gospel, One share for a glebe for the Church of England as by Law established One share for the benefit of a publick School in said Town.

Province of New Hampshire
 July 6th 1761.
 Recorded from the back of the Charter
 of Windsor
 Ppr. Theodore Atkinson Sec^{ry}.
 Copy of Record.
 Ex: Theodore Atkinson Sec^{ry}.”

What became of the original of this grant is unknown. A copy remains in the New Hampshire archives and a reprint of such copy may be found in volume 26 of the New Hampshire State Papers. An early certified copy on a printed form is filed in volume XX, page 90, of Land Papers in the office of the Secretary of State at Albany. A framed photograph (slightly reduced) of the last-mentioned copy is to be found in the Windsor Town Clerk's office and also in the Windsor Public Library and in the Old Constitution House at Windsor. Still another copy was recorded in vol. IV of Windsor deeds at pages 18 to 23.

As in the case of almost if not all of the other grants in Vermont, the great majority of the grantees in the Windsor charter never became settlers in the township they received. Most of the grantees were either traders or speculators in the titles and sold them at a profit to investors and intending settlers or else were dummies who turned over their rights to the promoters. In the case of the Windsor grantees, none except Captain Zedekiah Stone, David Stone, Jr., and Samuel Stone, Jr., became inhabitants of the township. Even these three men were speculators in grants, since their names appear as grantees in other township charters. The charge that the subsequent New York grants in the Vermont country were made mainly to speculators or land jobbers, while abundantly sustained by the facts, appears a little flat when one discovers that the New Hampshire grants were made in favor of speculators also.

The rights of the grantees under New Hampshire charters were sold in some instances by itinerant vendors who traveled through New England, New York, and as far south as New Jersey. Doctor Cadwallader Colden reported some of these traveling dealers as of no better appearance than peddlers. The general run of sales prices on that sort of hawking was doubtless low and the profit small. Judge Oliver Willard states that most of the settlers bought their titles "on small considerations."¹ Sir Henry Moore, Governor of the Province of New York, wrote Lord Shelburne that the rights of individual proprietors, entitling a holder to about three hun-

¹ 4 *Doc. Hist.* 428.

dred and fifty acres, could be bought for about thirty shillings.¹ Major Philip Skene in a letter written by him to Secretary Pownall of the Lords Commissioners for Trade and Plantations asserts that entire townships could be bought at New York at three hundred dollars apiece.² Some may have sold for more. There is reason to believe that the initial cost of the township of Windsor was considerably less.

The salesman, agent, peddler, hawker—call him what you will—of rights under the Windsor charter found a good market at Farmington, Connecticut, for from that town and its immediate neighborhood hailed at least six who made purchases of proprietary rights and soon became landowners and residents in Windsor, and, with the Stones, became conspicuous among the proprietors. By the Farmington citizens Windsor was doubtless regarded as a “boom” town of much promise and appeared to some of them as tempting an opportunity for fortune, as did Cardiff and Fort Payne to the people of Windsor in 1889.

There is a popular tradition that Windsor and several other of the Vermont towns were named for older towns in Connecticut and were given their names by the Connecticut men who composed in large part the early Vermont settlers. For this belief there seems no real foundation. The Vermont townships had names long before they had settlers. Among the grantees named in the charters there is no such predominance of Connecticut men as to warrant the idea that Connecticut had the naming of the new townships. The more reasonable view is that Governor Benning Wentworth and the secretary of the New Hampshire Provincial Council, assisted by the chief promoters of applications for charters, selected the names for most of the townships with a view to paying compliments where compliments seemed worth while or becoming. For example, Charles Watson-Wentworth, Marquess of Rockingham, bore the governor's family name and was a man of importance in England. The Earl of Halifax, Francis Fane, Charles Townshend, and Francis Guilford were members of the Lords Commissioners for Trade and Plantations. Colonel Brattle was a man of consequence in Massachusetts. The

¹ 4 *Doc. Hist.* 372.

² 7 *Lond. Doc.* 615.

Pownalls have already been mentioned. Next to personal compliments, it seems to have been the policy of the New Hampshire governor to incline to those English place-names which had been appropriated by men of title and were therefore supposed to be regarded with favor in the mother country. It is likely that the Duke of Marlborough, the Marquess (previously the Earl) of Hertford, and the Earls of Norwich and Bridgewater had unconsciously given Governor Wentworth some good ideas; and it probably was not mere accident that Saltash, one of the Vermont townships, got the same name as the borough represented in Parliament by Wentworth's old rival, Governor George Clinton, after the latter's retirement from colonial office. Rather than copying Connecticut names, although it often seems—especially in the cases of Windsor, Weathersfeld, and Hartford—as if Benning Wentworth had been merely copying them, it is the more reasonable belief that, according to his habit of life, he looked to England for what was in favor there and transplanted it to New England.

Whatever the correct historical theory, it is the fact that Benning Wentworth supplied the Vermont country almost wholly with township names of dignity and euphony. For this he richly deserves thanks. That he gave to Windsor one of the noblest names in English history is not to be denied, but it is far more likely that he had in mind either the ancient English Windsor or Lord Windsor, a former member of the Council for Foreign Plantations and Governor of Jamaica, than the town of Windsor in Connecticut.

In the *Vermont Journal* of March 17, 1823, is the absurd statement that the original or Indian name of Windsor was "Cushankamaug." This cock-and-bull yarn was unfortunately copied in *Child's Windsor County Gazetteer* and perhaps elsewhere. The origin of the story may be found in *Hubbard's History of New England* at page 307, where the author states, probably truthfully, that the locality of old Windsor in Connecticut previous to the settlement of the colonists there in 1636 bore that uncouth Indian name.

CHAPTER VI

THE PROPRIETORS

THOMPSON'S *Gazetteer of Vermont* and *Thompson's Vermont* state that upon the grant of the township of Windsor "the proprietors immediately organized themselves under this charter and proceeded to survey, make a plan of, and allot the town." Benjamin Homer Hall, in his *History of Eastern Vermont*, adopts this statement as his own. Whatever the true state of the facts may be, there appeared in the *New Hampshire Gazette*, a newspaper published in Portsmouth, in the issue of November 13, 1761, the following advertisement:

"PROVINCE OF NEW-HAMPSHIRE

"WHEREAS Application has this Day been made to me the Subscriber, one of His Majesty's Justices of the Peace for said Province, by the Owners of more than one sixteenth part of the Rights of Shares in the Township of Windsor, in said Province, desiring me to Notify or Warn the proprietors of said Windsor, to meet at the Dwelling House of Mr. Hilkieah Grout in Winchester in said Province, on the third Tuesday in December next, at Twelve o'Clock, to act and vote on the following Articles, viz. 1. To chuse a Moderator. 2. To chuse a proprietor's Clerk. 3. To chuse a proprietor's Treasurer. 4. To chuse Assessors. 5. To chuse a proprietor's Collector. 6. To see if the Proprietors will agree to lay said Township into Lots, and raise Money for that End or any other for the Advantage of said Township, and forwarding the Settlement thereof. 7. To agree on a Method for calling proprietors Meetings for the future. 8. To see if the proprietors will accept of a plan that may then be exhibited, to proceed to draw their Lots accordingly. And the said proprietors are hereby Notified to meet at the abovemention'd Time and place accordingly.

D. PEIRCE."

"Nov. 6 1761.

Accordingly, on December 15, 1761, at the tavern of Hilkiah Grout in Winchester, New Hampshire, convened what appears to have been the first meeting of the Windsor Proprietors. Happily the record of that meeting seems to be intact. It reads as follows:

"Att a Leagal meeting of the Proprietors of the Township of Windsor in the Province of New Hampshier held att the house of M^r Hilkiah Grouts in Winchester in s^d Province on Tuesday y^e 15th Day of December 1761 att Twelve of the Clock on s^d Day agreeable to a warrent advertised in the public prints Notifieng S^d Proprietors to meet att s^d Grouts: agreeable to an act made and passed in s^d Province of New Hampshier Impowering Propritors to call meetings

"1. the Proprietors proceeded and made Choice of Colo: Josiah Willard for their moderator.

"2ly Chose Doct^r Tho^s Frink Proprietors Clerk

"3ly Chose Lt. Joshua Lyman Lt. Samuel Ashly Doct^r Tho^s Frink Assessors

"4ly Chose Colo: Josiah Willard Collector

"5ly Chose Lt. Samuel Ashly Tresurer

"6ly Chose Colo: Josiah Willard Capt Zedeciah Stone
Lt. Samuel Ashly Phylip Mattoon Josiah Willard Jr.
Joshuah Willard Samuel Stone Simeon Alexander a
Com^{tee} to vie and Lott oute Said Town

on each

"7ly Voted to Pay Colo: Josiah Willard three Dollars
to Defray the Charges of the Charter and plan of the
Town

"8ly Voted to Raise three Dollars on each Right to defray
the charges of Lotting ought said Land and other In-
sident Charges

"9ly Voted y^e oners of Five Whole Shares in s^d Town making
applycation to the Clerk setting forth in writting under
theire hands the articals to be acted upon and his puting
up a Warrant or Notification in sum public place in
Winchester or Petersham

Fooreteen Days before s^d Time of meeting Shall be a Suf-

ficient Warning for the meetings of Said Proprietors of Windsor untill further orders of this Propriettee.

"Voted to Dismiss this meeting

Josiah Willard
Attest Tho^s Frink

Moderator
Clerk
Proprietors"

The minutes of this meeting are interesting or important in several particulars. First, the meeting was held at Hilkiah Grout's. This fact, the proprietors must have afterwards regarded as ominous; for no other name in early Windsor history came so near being anathema among the Windsor settlers as "Grout." Hilkiah himself, although he became a pronounced New York supporter after he settled in Weathersfield, was not the cause of annoyance; but his quarrelsome and erratic brother John, a pettifogging lawyer, a New York sympathizer, and, finally, a Tory, was the cause of lawlessness, riot, and, no doubt, bitter hatreds.

Second, the minutes contain evidence that Colonel Josiah Willard was the man who had engineered the procurement of the charter. His services in this case were probably the same as in many others, since his name appears as one of the grantees in a dozen or more of the Benning Wentworth charters. A native of Lunenburg, Massachusetts, married at the mature age of sixteen, colonel in command of Fort Dummer from 1750, Josiah Willard, son of the first Josiah Willard, had become something of a political power among the settlements in the Connecticut valley. He not only knew the ropes in the business of securing township charters, but he had the influence to obtain what he desired in this line. He was the man to be consulted as to prices. Thus one can explain the allusions in a facetious letter written a dozen years later by Ethan Allen to Benjamin Spencer of Clarendon, who had settled under a New York title and protested that he could not afford to secure a title under New Hampshire. "We are disposed to assist you in purchasing," says Allen, "and on condition Col. Willard or any other person demand an exorbitant price for your lands, we scorn it, and will assist you in mobbing such avaricious persons, for we mean to use force against oppression, and that only. Be it New York, Willard, or any person,

it is injurious to the rights of the district.”¹ Associated speculators in New Hampshire grants always invited Colonel Willard to become a member of their syndicate if they were wise. Moreover, he seems to have had the capital or credit necessary to carry his associate proprietors. A few years later he established cordial relations with the New York government and was rewarded for his services to that province. Had he retained his interest in Windsor down to the time the settlers came seeking confirmatory grants from New York he could have been of great assistance to the people of Windsor.

If further evidence, outside the proprietors' minutes, were needed to show that Colonel Willard obtained the Windsor charter from Benning Wentworth, we have it in the recitals in a deed executed by Timothy Ruggles, one of the proprietors, to Joshua Willard under date of March 25, 1762, viz.,

“Know all Men by these Presents that Whereas Josiah Willard Esq. of Winchester in the Province of New Hampshire Incerted my Name as a Grantee in the Patent he Took out for the Township of Windsor in said Province, I, Timothy Ruggles of Hardwick in the County of Worcester Esq^r In consideration of what Joshua Willard Paid to the said Josiah Willard for his Trouble and expence about said Patent, I do hereby Remise, Release and forever quitclaim . . . to him the said Joshua Willard . . . ”²

Excepting, of course, the Wentworths, it is safe to say that the family most active in promoting township grants along the west bank of the Connecticut River were the Willards.

Third, the compensation voted Colonel Willard, viz. three dollars on each proprietary right, for the cost of securing the charter gives an idea of the initial cost of the enterprise. Assuming that no charge was assessed against the Benning Wentworth or other “reservations,” Colonel Willard received by way of reimbursement from his fellow grantees only one hundred and seventy-four dollars.

Fourth, the choice of Doctor Thomas Frink as clerk gives an excuse for introducing to the reader a jovial character of Keene. A physician by profession, and a locally celebrated physician, too, Doctor Thomas Frink was also the landlord of

¹ H. Hall's *Early Vt. Hist.*, p. 176.

² 1 *Windsor Deeds*, p. 549.

a popular public house on the Keene town street and a magistrate as well. Amid his professional and business cares he found time for speculative investments and for convivial occasions. From S. G. Griffin's excellent *History of Keene, New Hampshire*, comes this story, worth repeating here, of the first secretary or clerk of the Windsor Proprietors. It was told originally by the Reverend Laban Ainsworth of Jaffrey and runs as follows: When Ainsworth was about seventeen years old—just after the opening of the college at Hanover—his father furnished him with a horse, saddle, and bridle, and sent him to Dartmouth. His first stop on the way was at Keene. At the tavern he met Doctor Frink, who was trading horses and drinking flip. After some haggling, a trade was concluded, and the doctor sat down to write a note and a bill of sale. But his last mug had been one too many, and his right hand had forgotten its cunning. After several failures in his attempt to put the note in shape, he looked about the tap-room and saw the intelligent face of the bright and sober young freshman. "Here, young man," said he, "won't you jest set down and write this 'ere note for me? I guess I'm a leetle drunk." "Oh, yes," said Ainsworth, "I'll write it," and he sat down and quickly wrote the note. The doctor was pleased, yet was wise enough to say but little. Ainsworth proceeded on his journey and entered the college. In the autumn of that year an epidemic of fever, common in those days, broke out among the students, and young Ainsworth was one of those attacked. President Wheelock was alarmed and sent for all the best physicians within reach, among them Doctor Frink, of Keene, for Frink stood high in his profession notwithstanding his habits. The doctor appeared on the scene, thoroughly sober and responsible, and visited every sick student, young Ainsworth with the rest. When the Doctor had attended carefully to his case, Ainsworth asked for his bill. "No, young man," said Frink, "I'll not take a cent. I know you. You're the nice boy who once wrote a note for me in Keene when I was so dang'd drunk."

Fifth, the selection of Winchester in the Province of New Hampshire and Petersham in the Province of Massachusetts Bay as the places for holding the meetings of the Windsor Pro-

prietors indicates that in those two towns and the regions about them dwelt a considerable proportion of the grantees named in the Windsor charter. In this connection it may be noted that Captain Zedekiah Stone, and his sons David and Samuel, were of Petersham.

Writing of Windsor in the year 1824 for Zadock Thompson's *Vermont Gazetteer*, "A. A.," who we may guess was Asa Aikens, mentioned "what few of the proprietors' records are now remaining." Hence we may safely assume that those of the proprietors' records that have been preserved to this day are far from all. They have been poorly cared for and should not be inspected further unless they can be mounted in modern permanent form by an expert. All that were in condition to be copied were carefully transcribed upon large sheets of stout paper by Mr. Sherman Evarts in the summer of 1916. In the year 1923 the Town Clerk discovered a little book into which had been copied, many years ago, a fairly legible transcript of these same originals, but including no others.

After the meeting of December 15, 1761, which we have termed the first meeting, nothing seems to have taken place until, on a request signed by Josiah Willard and Josiah Willard, Jr., dated Winchester, March 24, 1762, Doctor Thomas Frink on that day posted a warning for a meeting of the Windsor proprietors, to be held at Hilkiah Grout's tavern on the 12th of April. From the record—although no entry to that effect was made—it is to be inferred that the committee appointed the preceding December "to vie and lott oute said town" had reported having viewed the land and having laid it out into numbered lots. At all events, Doctor Frink recorded on April 12, 1762, "Voted to draw the Hows Lotts and meadow Lotts as they [] layd oute on the Plan." This seems to have been done. What purports to be the tattered record of such drawing, bearing the lot numbers of the parcels drawn by each proprietor, remains in the town clerk's office. There is another record at the Secretary of State's at Montpelier entitled "A list of the Names of the Original Proprietors of the Township of Windsor with the number of Meadow and the first Division of House Lots drawn to each under the Grant of New Hampshire on the twelfth day of April Seven-

teen hundred and sixty two." The latter list is complete, while a portion of the former is missing. The two do not agree as to the house-lot numbers. Possibly the discrepancy is due to the Montpelier list having been made up after the adoption of a new parchment map of the town on November 3, 1767. In support of this theory we find a third fragmentary list of house lots and meadow lots among the Proprietors' records substantially agreeing, as far as it goes, with the Montpelier list and endorsed in Thomas Cooper's hand as having been turned in in 1767.

At this meeting of April 12, 1762, the committee was instructed to lay out the "Gleeb" and Church of England rights and the proprietors desired that Captain Zedekiah Stone and David Page "be added to the Committee for the Building of Mills Laying oute Roads [] and Pass accompts and for the Laying oute the Town."

As far as the proprietors' records show, there was no further progress in the affairs of the township for more than a year. On July 16, 1763, Doctor Frink posted a warning for a meeting to be held at Hilkiah Grout's on August 24, next ensuing. This warning specified as subjects for action the building of a mill, the building of roads, the laying out of the rest of the township, the raising of money for roads and lotting, and to act on any other articles that might be thought best "for the speedy Setelment of s^d Township."

Besides the choice of a moderator this meeting actually covered but one transaction, but that was an item of importance. It introduced into Windsor history the substantial name of Israel Curtis and voted him fifty acres of land in consideration of his giving a bond in the sum of one hundred pounds sterling to build a saw mill in Windsor by August 1, 1764, and a grist mill as soon as there should be twenty inhabitants to raise one acre of grain apiece in the township. The land so granted to Mr. Curtis was to abut the south side of house lot forty-two on the north and Mill Brook on the south, "leaving Ten acres between s^d Brook and house Lot No. forty-one for a meeting house place Training Feild and Buring Yard Reserving sutible Roads in s^d Land for the use of the Town six Rods wide."

Thereafter matters did not proceed with sufficient rapidity

to suit some who had bought rights of the original proprietors. Accordingly Doctor Frink was addressed in a writing dated "Charles Town May y^e 24th 1764" requesting him to call a meeting to "compleat the Laying of the house Lotts, to See if the Commitee all Reday Chosen will Lay all Roads;—otherwise to chuse a commitee that Shall forthwith complete said Roads." Appended to this request is the following: "N.B. as Thare is many of the Prop^s at work Together with us Desir the meeting at this Place." Then come what appear to be the signatures of Israel Curtis, Steel Smith, David Taylor, Phineas Graves, Samuel Hunt, and Enos Stevens. This paper is worthy of notice since it bears the name of Steel Smith, who is popularly spoken of as the first Windsor settler in 1764. Apparently he and Israel Curtis were then working at Charlestown, New Hampshire.

Pursuant to the request, a meeting was called by the clerk, to be held at Charlestown. It convened, was adjourned to a later date at Keene, convened and adjourned once more, and then, at six o'clock on the morning of August 29, Lieutenant Samuel Hunt, Steel Smith, and Enos Stevens were chosen a committee to join the existing committee with authority to continue laying out the town and the roads. This meeting voted an assessment of twenty shillings on each original proprietary right.

After this meeting there is an unfortunate gap of three years in the proprietors' records. The missing records are those for the first years of the difficulties occasioned by the claims of New York. Possibly all the records for that period showing, as they probably did, the appointment of an agent to represent the Windsor Proprietors in New York City and the instructions given him in the Proprietors' behalf were delivered to Nathan Stone, who represented the proprietors as such agent. In 1771 Thomas Cooper as proprietor's clerk once referred to "Col. Stone's minutes." The minutes so referred to may be the missing records and perhaps were permanently retained by Colonel Stone. As late as 1782 a committee appointed by the town visited Colonel Stone in an endeavor to get from him "public papers lying in his hands that concern the town and deliver them into the town clerk's office."

CHAPTER VII

COLDEN PREVAILS

WHILE the Windsor Proprietors were holding their meetings at Winchester, Charlestown, and Keene, between the years 1761 and 1764, the titles they had acquired under their New Hampshire charter were not gaining in strength.

With the death of Lieutenant-Governor DeLancey of the Province of New York on July 30, 1760, Doctor Cadwallader Colden, as President of the New York Provincial Council, came to the front. He improved the occasion by reminding the Lords Commissioners for Trade and Plantations, by a letter dated August 30, 1760, that it was important to settle questions relating to province boundaries.¹ Again, on February 28, 1761, in a letter to the same authorities² he touched specifically on the New Hampshire matter. "I am clearly convinced," he wrote, "that the Province of New York extends eastward as far as Connecticut River, that New Hampshire can have no pretence to the westward of that River, being bounded westward by the neighboring governments and by no other boundary. The truth of what I now assert I am confident will be evident to your Lordships after perusing what you will find entered on the Minutes of Council of this Province the 18th day of October 1751 and more fully and clearly in the Minutes of the 2^d of March 1753, which I make no doubt have been transmitted to your Lordships." In the same letter he argued that it would be to the advantage of the region between the Connecticut River and Lake Champlain to belong to New York because the course of trade naturally would be with the cities of New York and Albany and along the Hudson River.

Colden's letters, many of which have been preserved and are published in the New York Historical Society's *Collections*

¹ 7 Lond. Doc. 445.

² 7 Lond. Doc. 457.

and in the New York *London Documents*, show his activity, his ability, and his zeal in arguing the boundary case. With consummate skill and perseverance and virtually without the aid of any of his colleagues, he so presented what many have termed the weaker side of the controversy that it seemed the stronger and, driving home to England argument after argument, at last obtained a decision in his favor. At those times when there was a governor in charge at New York, the correspondence on the boundary question lost most of its pungency and force; but when Colden was left at the helm the case of New York against New Hampshire was handled with vigor. Thus, with the advent of Governor Monckton, the prosecution of the case seemed suspended until February 11, 1762,¹ when Colden, as lieutenant-governor, found opportunity to remind the Lords of Trade of the damage being done to the King's interests by the intrusions of the people of New Hampshire. Again, on September 26, 1763,² and with some show of excitement, he wrote how he had just discovered a dangerous representation made to Governor Monckton by five of the New York Provincial Council. That representation, it seems, nearly gave away the New York side of the controversy by suggesting, as a possible compromise, a boundary line twenty miles east of the Hudson River. The lieutenant-governor wrote as if his discovery of this weak-kneed representation was providential and was the means of averting grave injury not only to the Province of New York but to the King. "I have been 40 years at the Council Board," he added, "and in that time have been more conversant in publick affairs than any man now living in the Province." Like an elderly relative he pointed out the comparatively slight experience of most of the other members of the Council and virtually administered to the Lords of Trade a somewhat severe lecture against their paying serious attention to so light a paper as that submitted to Governor Monckton.

Here is an example of Colden's rather artful reasoning: "In my humble opinion no reason of any weight can be given why the King should not affirm his right to the lands on the west side of Connecticut River, or to the Northward of the Colony

¹ 7 *Lond. Doc.* 490.

² 7 *Lond. Doc.* 562.

of Connecticut, unless it be that many families who have unadvisedly settled on the west side of Connecticut River would thereby be ruined. But if the King shall think fit to confirm their possessions to them on their paying the Quit rent established in his Province of New York, they cannot in any shape be distressed or have any just reason of complaint.”¹ In this, one may discover a trace of Colden’s desire that a re-granting of the Vermont country should be given over to his charge. In view of what eventually happened, his purpose may seem clear, but the letter quickly turned to more unselfish reflections. He intimated that promoters had been taking land titles from New Hampshire merely because such titles were cheaper and so left to the promoters a larger margin of profit. He felt that the settlers under the New Hampshire charters paid inadequate quit rents—all to His Majesty’s damage.

Possibly Colden’s most fetching argument came through his contrasting the governments of New York and New Hampshire. On this head he wrote as follows: “The New England Governments are formed on republican principles & these principles are zealously inculcated on their youth in opposition to the principles of the Constitution of Great Britain. The Government of New York, on the contrary, is established, as near as may be, after the model of the English Constitution. Can it then be good Policy to diminish the extent of jurisdiction in His Majesty’s Province of New York to extend the power and influence of the others?”²

For all that appears in the records, Colden wrote these letters without any word of encouragement from England and only at such times as he was at the head of the Provincial Government of New York. No answer and no hint of an answer came. In the meantime, as has been seen, Benning Wentworth, with a cool, Yankee aggressiveness that we may be excused for admiring, had resumed his practice of granting charters and had continued it until his townships had covered a great part of what is now Vermont.

It was late in the year 1763 that Cadwallader Colden tried a new method of forcing the issue by publishing broadcast his

¹ 7 *Lond. Doc.* 562.

² 7 *Lond. Doc.* 564.

celebrated Proclamation.¹ This proclamation declared that under the grant of King Charles the Second to the Duke of York in 1664, "all the land from the west side of the Connecticut River to the East Side of Delaware Bay" had become the Province of New York, that the west bank of the Connecticut River was therefore the Eastern boundary of the Province, and that ignorant and incautious persons were being imposed upon by the offer of titles within that territory under grants of the government of New Hampshire. The proclamation also required New York officers to exercise jurisdiction as far east as the Connecticut River with the specific requirement that the sheriff of Albany County must report all persons holding lands westward of the Connecticut River under New Hampshire titles "that they may be proceeded against according to law."

Colden transmitted a copy of this proclamation to England and wrote two vigorous letters, on January 20 and February 8, to the Lords Commissioners for Trade and Plantations.² He gave in the letter of January 20 a full chronological history of the controversy and reported the astonishment of the New York Government at the recent discovery that a great number of townships—"some affirm one hundred and sixty"—had been granted by New Hampshire in the disputed territory since the submission of the case to the King. The letter of February 8 cleverly rubbed the matter in: "The Govern^t of New Hampshire, I am told has lately granted 160 townships, of six miles square each, on the west side of Connecticut River. A man, in appearance no better than a Pedlar, has lately travelled through New Jersey and this Province, hawking and selling his pretended rights of 30 townships, on trifling considerations. The whole proceedings of the Govern^t of New Hampshire, in this case, if what is told me be true, are shameful and a discredit to the King's authority, under which they act."

Colden's proclamation had at least the effect of producing

¹ 4 *Doc. Hist.* 346-347. See, also, *Documentary History of the Protestant Episcopal Church in the Diocese of Connecticut*, vol. II, p. 68, for comments on Colden's claims to jurisdiction under date of August 18, 1764.

² 4 *Doc. Hist.* 348-352.



From a photograph by Pach Brothers

CADWALLADER COLDEN

LIEUTENANT-GOVERNOR OF THE PROVINCE OF NEW YORK

From a painting by Matthew Pratt, by courtesy of the New York Chamber
of Commerce

from Benning Wentworth a counter blast in the shape of a counter proclamation¹ declaring that the grant of King Charles the Second was obsolete and assuring the settlers under the New-Hampshire grants that if settlements were made in compliance with the New Hampshire charters, the titles would be duly confirmed even if the King should decide the boundary dispute in favor of New York. A copy of Governor Wentworth's proclamation Colden promptly forwarded to the Lords Commissioners for Trade and Plantations on April 12, 1764, in a letter² full of wrath but not omitting to reiterate the arguments he had again and again urged upon their Lordships. This was his last plea in the case. In the late summer or early autumn he received a letter under date of July 13, 1764³, signed by the Earl of Hillsborough and several other of the Lords of Trade, indicating that the importance of the case was appreciated and that they had recommended to the King that "Connecticut River be the boundary."

The famous order of the King in Council, under date of July 20, 1764, declaring "the Western Banks of the River Connecticut to be the Boundary Line between the said two Provinces of New Hampshire and New York" did not reach America until the following spring. Governor Hiland Hall, in his *Early History of Vermont*, at page 60, comes pretty near intimating that the New York authorities purposely withheld for a time the announcement of the order. The delay, however, seems to have been wholly on the part of the officials in England, for Benning Wentworth, who also received a copy from England, reported to his New Hampshire Council on May 23, 1765, that his copy had come since the last adjournment of the Council on March 8. Colden duly proclaimed the order on April 10, 1765.⁴

Thus, after fifteen years, ended the formal controversy between the provincial governments of New York and New Hampshire with respect to the boundary line. Thus, also, after a century, the ancient eastern boundary of the Duke of York's patent from King Charles the Second, north of the Massachusetts line, was vitalized anew. In the meantime

¹ 4 *Doc. Hist.* 353.

² 4 *Doc. Hist.* 354.

³ 7 *Lond. Doc.* 642.

⁴ See also 4 *Doc. Hist.* 479; *N. Y. Hist. Soc. Coll.* (1923) 28.

Benning Wentworth had accomplished the granting of the better part of the disputed territory, had given to himself five hundred acres in each township, and had pocketed whatever fees went with the business; but future jurisdiction of the region fell to his opponent, Cadwallader Colden.

It was perhaps natural but extremely unfortunate that Cadwallader Colden should have interpreted the boundary decision as retroactive. Doubtless he remembered the definite admission, made by Wentworth in a letter written to Governor Clinton under date of June 22, 1750, that, if the Bennington grant "falls by His Majesty's determination in the Government of New York, it will be void of course." On that assumption Colden promptly began to make grants of his own in portions of southwestern Vermont already granted by Benning Wentworth and so contributed the beginnings of provocation to the settlers.

CHAPTER VIII

THE SETTLEMENT OF WINDSOR

THE preponderance of authority supports the belief that settlement within the township limits of Windsor began in 1764.¹ While Steel Smith is commonly spoken of as *the* first settler, the Windsor newspaper's report of his death does not explicitly so state,² and, according to Zadock Thompson, there were two persons already on the ground when Steel Smith arrived. These were Solomon Emmons and Mary, his wife. The writer has found no clue to the location of the Emmons cabin or camp, nor is there any tradition in relation to its whereabouts. Solomon Emmons's name appears in the list of the grantees of Hertford (Hartland), which fact might well account for his being in the immediate neighborhood; but Emmons and his wife remained and became citizens and property owners in Windsor and are deprived of the honor of being the first settlers mainly on Zadock Thompson's assertion that, at Steel Smith's coming, Emmons had bought no land and made no improvements.³ The argument may seem slim; yet no court has rejected Steel Smith's claim to the distinction which, having been recorded upon his gravestone in the Old South churchyard, we shall not further question.

Zadock Thompson's version of the arrival of Smith and Emmons, as printed in *Thompson's Gazetteer* and *Thompson's Vermont*, is as follows: "The first permanent settlement in the town was commenced by Captain Steel Smith, who removed his family from Farmington, Connecticut, to this town in August, 1764. At that period there was no road north of

¹ See the article by Bancroft Fowler in the *Adviser or Vermont Evangelical Magazine* for October, 1810.

² The *Vermont Republican* of April 20, 1812, in recording the death of Captain Steel Smith, asserts that he "is said to have cut down the first tree ever felled in Windsor." That in this he anticipated all explorers, trappers, hunters, soldiers, and surveyors seems improbable.

³ It is a fact that in a deed of Hartland land, executed by Emmons at Windsor on August 10, 1764, he described himself as of Hatfield, Mass., which had been for some years the home of some of the Emmonses.

Charlestown, N. H., then called *Number Four*. . . . There was, however, a man by the name of Solomon Emmons, and his wife, who had erected a hut and were living here when Captain Smith arrived, but he had not purchased the land or made any improvements with a view to a permanent settlement. Mrs. Emmons was the first and for some time the only white woman who resided in the town."

In 1764 Steel Smith was thirty-five and Solomon Emmons was thirty-eight. The former was the more considerable figure of the two, became the owner of many acres of land in Windsor and elsewhere, kept for a time a public house, was treasurer of the town, was an army contractor in the American Revolution and lived until 1812. Emmons seems not to have prospered and died in poor circumstances in 1805.¹ Solomon Emmons's wife, Mary, who outlived him by twenty years, was for a long time the only midwife in Windsor and vicinity. During the pastorate of the Reverend Benjamin Bell, she was excommunicated from the Congregational Church of Windsor, seemingly for having asked a letter of dismissal to Parson Shuttlesworth's church. Later, when charges of dishonesty were preferred against Pastor Bell, Mrs. Emmons's testimony against him was very damaging. She died November 8, 1825, at the reputed age of 94.²

No contemporary account of the arrival of any of the early Windsor settlers remains. Still, there is an account of an early arrival on the opposite bank of the Connecticut in Cornish in the year 1765, which is told so pleasantly and is vouched for by such respected authority that it might almost be given place in this history. It is Dame Alice Chase's story of her coming to Cornish, as printed in the *Reminiscences* of her son, Bishop

¹ *Spooner's Vt. Journal*, October 1, 1805; *Post Boy* of same date.

² *Vt. Republican and Yeoman*, Nov. 14, 1825, in which her name is given as "Eunice." The notice further states that "Mrs. E. was the first and for several months the only white female inhabitant of this town." The writer's father, Henry Wardner (born in Windsor in 1817), and the writer's aunt, Helen Minerva Evarts (born in Windsor in 1820), said that they could remember Mrs. Emmons. A question arises in the writer's mind as to whether these accurate and reliable people may not have confused a later Mrs. Emmons with the settler's wife. There was for a time as manager of Pettes's Coffee House in Windsor, one Solomon Emmons, who was probably a son of Solomon Emmons the settler.

Philander Chase, and in W. H. Child's *History of Cornish*. One wishes that she had thought to mention the two families already settled on the opposite bank of the Connecticut in Windsor, instead of erroneously recording that she herself was the first white woman to move into the region north of "Number 4."

Let us hope that this good woman found in her Windsor neighbors, Mistress Mary Emmons and Mistress Lois Smith, congenial spirits with whom to face the rigors of life in the wilderness.

In plain view from "Blowmedown," which was the site chosen for the home of Dudley and Alice Chase, and but a few rods down the river on the opposite side is the traditional landing-place of Steel Smith. Proceeding from the river bank west to near where the main highway now runs and perhaps sixty yards north of the Hubbard Brook, he selected the spot for his first log hut in what later was approximately the southwest corner of the Jason Steele property, one-half mile north of the present Windsor post-office. Here we shall leave him for a time. And if in that then remote and lonely spot he was harassed and terrified by the roar of wild beasts and by Indian war-whoop attuned to the conventional overture of American local history, Steel Smith left no record of his "sufferings" out of which the readers of this volume can be served with goose-flesh. As a matter of fact, the Indians had left Windsor for good.

The population on those of the New Hampshire Grants west of the Connecticut River, to the eastward of the Green Mountains, in the spring of 1765 was sparse and scattered to a degree hardly realized by the moderns. B. H. Hall, in his *History of Eastern Vermont*, at pages 130 and 131, gives estimates by various authorities. Perhaps the best-informed witness on this subject was Judge Oliver Willard, of Hertford (Hartland), who testified under oath to the belief that at the time the order of the King in Council was proclaimed¹ "there might be about one hundred families settled in all that country eastward of the Green Mountains . . . and that those inhabitants were scattered through about twenty tracts or townships, of

¹ April 10, 1765.

about six miles square each, and principally along the Connecticut River." Judge Willard's estimate is the largest of all. The population on the west of the Green Mountains at that time was hardly greater. More likely it was a little less; but the testimony is vague.

"The next season" after Steel Smith's arrival, says Zadock Thompson (which would be the summer of 1765), "Major Elisha Hawley, Captain Israel Curtis, Deacon Hezekiah Thomson, Deacon Thomas Cooper, and some others came on and began improvements."¹ As to Curtis, the statement is probably true. He had been in Charlestown, New Hampshire, with Steel Smith the year before and had taken more than a perfunctory interest in the settlement of Windsor. As to Hawley and Cooper there is less evidence. Thomson, perhaps, did not settle in Windsor quite so early, for in deeds of a later date he is described as residing at Farmington, Connecticut. It is fairly to be inferred from the records in the *Documentary History of New York* that the spring of 1765 saw Zedekiah Stone, Nathan Stone, Joseph Wait, and Benjamin Wait at Windsor, and it is likely also that Joel Stone, David Stone, and Samuel Stone came during that year. All told, the settlements in Windsor so progressed that on August 17, 1765, Zedekiah, Nathan, and David Stone were willing to subscribe their names to the indefinite though probably exaggerated statement that "about sixteen families" had already seated themselves within the township of Windsor.

It is hardly reasonable to suppose that the early settlers in Windsor differed in quality from those in other of the older towns on the New Hampshire Grants. General characterization is far from impressive and not particularly informing, but that is what the histories supply. *Thompson's Vermont* gives a fair sample of it in these words, which probably are sufficiently eulogistic: "The settlers on the New Hampshire Grants were a brave, hardy, but uncultivated race of men. They knew but little of the etiquette of refined society, were blessed with few of the advantages of education, and were destitute of the elegancies and, in most cases, of the common conveniences of life. They were sensible that they must rely upon the labor of

¹ *Thompson's Vermont*, Part III, p. 194.

their own hands for their daily subsistence, and for the accumulation of property. They possessed minds which were naturally strong and active, and they were aroused to the exercise of their highest energies by the difficulties which they were compelled to encounter.”¹ Thompson, like many other writers, here omits to state specifically the all-important fact that the settlers were generally very poor.² Poverty was the factor which gave direction to most of their efforts and shaped their history.

A passage from C. L. Becker's *Beginnings of the American People* has something of the right description of the first Vermont settlers, although that writer was not in terms referring to them. “Long before the Revolution,” wrote he, “there existed in New England a fringe of pioneer settlements . . . which formed a newer New England, less lettered and scriptural than the old, where class distinctions were little known, where contact with the Indians and the wilderness had added a secular ruthlessness to the harsh Puritan temper, and where the individual, freed from an effective ‘village moral police,’ learned in the rough school of nature a new kind of conformity unknown to the ancient Hebrew code.”³

Nor is it to be believed that the settlers in Windsor or the neighboring towns were men of exceptional virtue or above those failings which have marked human nature at all periods of history. As far as the writer is aware, there is no separate estimate of the character of the Windsor settlers other than a somewhat uncharitable tradition handed down in his own family to the effect that the founders of the town were a rough lot of men. How this tradition started or whether it was based on comparisons with the pioneers in other townships the writer is uninformed. As the story proceeds the reader may determine whether the tradition does injustice.

Of the Windsor settlers, all may be classed as husbandmen. Steel Smith, on his farm a short distance north of the present village, and Solomon Emmons, wherever he pitched his camp,

¹ Thompson's *Vermont*, Part II, p. 30.

² *Documentary History of the Protestant Episcopal Church in the Diocese of Connecticut*, vol. II, pp. 162-163.

³ *Beginnings of the American People*, p. 175.

were plainly farmers. Israel Curtis, a millwright and a man of business capacity, built a grist mill on the north side of Mill Brook east of the main road and probably settled there or close by. On the opposite side of the road was the saw-mill of Thomas Cooper, who was Doctor Thomas Frink's successor as Proprietors' Clerk and at whose house after the settlement of Windsor the Proprietors' meetings were usually held. Captain Zedekiah Stone, who appears to have been the town father, steady and respected, had a farm south of Mill Brook, including Buena Vista. Zedekiah's eldest son Nathan, who soon was known as Colonel Stone, was the chief political character and the man who was trusted to handle the transactions with the provincial government of New York. Although he had some of the qualities of leadership, he was unstable and bad-tempered. He seems to have been endowed with brains and ambition somewhat above his fellows. His was the most outstanding individuality among Windsor's first settlers. Next to Thomas Cooper, he was the best penman in town and was a fair speller. He is said to have lived near the northern boundary of the township and not far from the river. Perhaps his home was on top of Hourglass Hill. There were at least two farms between his place and the Hartland line. David Stone, another of Zedekiah's sons, lived on the river bank at the ferry. Possibly he was one of the ferrymen. Joseph Wait, Benjamin Wait, and Joab Hoisington were soldiers as well as farmers. Where the Waits had their first Windsor habitations is unknown, though there is some indication that they lived on the south or lower meadows. Hoisington, according to H. S. Dana's admirable *History of Woodstock*, made his home on the south side of Pulk Hole Brook, then called Hoisington's Brook, and on the west side of the main road. The present site of the Old Constitution House is not far from the spot.

Joseph Wait, Joab Hoisington, and Israel Curtis were officers in the Revolutionary army and gave their lives in that service. Benjamin Wait, also an officer, survived the war and attained a position in Vermont history more noted than any other Windsor settler. Samuel Stone, who was the first Windsor surveyor, and Joel Stone, who was the first Windsor con-

stable, may have made their homes in the beginning with their father, Captain Zedekiah, although in a few years Samuel had a house of his own. The first homes of Hezekiah Thomson and Elisha Hawley the writer cannot locate. Perhaps Thomson settled north of the present village. The *Vermont Journal* of June 16, 1883, mentions the rise of ground north of the Pulk Hole Brook and west of the highway, where stood for many years the Evarts farmhouse, as the spot where Deacon Thomson once lived, but the writer has no proof. Of Hawley little is known. He acquired some of his land in partnership with Thomas Cooper and as early as 1772 took title to the grist-mill property. Thomson was a deacon of the first church and an orderly, quiet character, somewhat of the type of Zedekiah Stone. Two other early settlers were Andrew Norton (or Naughton), who located in the western part of the township and proved himself an excellent farmer, and Joseph King, a carpenter, whose name appeared in the records for a few years only. The last was chosen by the settlers as the contractor to build the first bridge across Mill Brook—a work that he never accomplished.

CHAPTER IX

A VISIT TO NEW YORK CITY

THE summer of 1765 saw several of the inhabitants of Windsor, in the company of settlers from other towns upon the Grants, at the city of New York, painfully waiting on the Provincial Council in the hope of having their land titles confirmed by New York authority. To this end these men of Windsor, like settlers in the other towns, conceived it expedient that each township theretofore chartered by Benning Wentworth should be re-granted to the inhabitants by the New York provincial government. They also felt that for the convenience of the growing population the New Hampshire Grants should be accorded a county government separate from the County of Albany, of which the Grants had become a part.

It is plain that the Windsor settlers had ground for concern with regard to the validity of their titles, even before the announcement of the boundary decision by the King in Council. Upwards of four months before the receipt of the news of the decision, the settlers in Springfield had awakened to the belief that the jurisdiction of the region "pertaineth to his Majesty's Province of New York." But the settlers of Windsor might not have bestirred themselves so soon or at all had it not been for the manner in which Lieutenant-Governor Colden began to turn the boundary decision to his own advantage. Indeed, some of the early Vermont settlers, while quite alive to the idea of possession of land, seemed to regard the matter of title as something remote and contingent. Chief Justice Royall Tyler, in the third chapter of his *Algerine Captive*, wittily illustrates a viewpoint not uncommon with regard to land titles. In the course of that "fictitious autobiography" of his he brings in an imaginary ancestor to whom had been granted by the Dutch settlers of New York fifty thousand acres of land without metes and bounds. To this grant neither the ancestor nor his descendants had laid claim. "When I men-

tioned this circumstance some time since in Hertford,"¹ relates the merry Vermont jurist, "certain gentlemen immediately offered to raise a company and purchase my right. I candidly confessed that I was not possessed of the title and knew not the particular spot where the land lay, and consequently was unwilling to sell land without title or boundaries. To my surprise they laughed at my scruples, and observed that they wanted the land to speculate upon; to *sell*, and not to *settle*. Titles and boundaries, in such cases, I understood, were indifferent matters, mere trifles."

Colden's first move in the exercise of his newly acquired authority was to grant a new township on lands already granted as townships by Benning Wentworth in the southwestern part of the Vermont country. He also began shortly the issue of numerous individual patents for land to former soldiers. Plainly this boded trouble for those who derived title merely from New Hampshire. Whether at Colden's instance or on their own initiative, four of the more prominent proprietors on the east side of the Green Mountains took steps to secure from him re-grants or confirmatory patents for their respective townships. The standing of these four men may have made their example an influence on others. One of the four was Thomas Chandler, of Flamstead (Chester), a scheming politician, always alert in furthering his own interests and reputed to be wise. Another was Samuel Wells, of Brattleboro, a man of talents, social station, and worldly possessions superior to most of the early Vermont settlers. The third was Oliver Willard, who lived in Hartland, the next township to the north of Windsor, and who was probably advised by his brother, Colonel Josiah Willard. The fourth was Colonel Josiah Willard himself, of large influence among the early settlers on the Grants, and who, though a resident of Winchester, New Hampshire, was a property owner in Putney and active in the interests of the latter town. Colonel Willard's petition for a re-grant of Putney bore date June 5, 1765. Even earlier than Colonel Willard with such petitions were some of the proprietors of Newfane and Newbury. It is possible, of course, that the Windsor settlers would have shaped

¹ Hartland.

their own course regardless of what others thought expedient, and it is true that the Windsor application for a New York patent was among the earlier; yet it seems more likely that the men of Windsor were followers rather than originators of what became a common proceeding.¹

There were at least two petitions on behalf of the inhabitants of Windsor for the confirmation of their grant. The first petition, dated August 17, 1765, is the first known public action by the inhabitants of Windsor as a body. It is still preserved and may be found at page 132 in volume XIX of *Land Papers* in the office of the Secretary of State of New York at Albany. It reads as follows:

"To the Hono. Cadwallador Colden Esq^r his majestyes Lieutenant Governor & Commander in Chief of the Province of New York and the Territories depending thereon in America In Council

"The Petition of Zedekiah Stone and David Stone Junr in behalf of themselves and their associates, Humbly Showeth

"That there is a Certain Tract of Land on the west Side of Connecticut River at a Place Known by the Name Windsor Beginning at a Black Ash Tree marked with the figures two & three from thence Running North Seventy-four Degrees West Six miles from thence North ten Degrees East Six miles from thence South Seventy-five Degrees East Six miles & a Quarter to a tree marked Three & four Standing on the Bank of the River Connecticut Six miles on a Straight Line South of the South East Corner of Hartford from thence Down the River to the first Bounds Mentioned Containing twenty-three thousand five hundred acres Strict Measure That your Petitioners conceiving the said Tract to be within the Province of New Hampshire did Seat themselves there to the number of about sixteen families under the Grant of that Government, but finding by his majesty's order in Councill of the 20th Day of July 1764 that the said Tract falls within the

¹ Governor Francis Bernard of the Province of Massachusetts Bay in a letter to Cadwallader Colden, dated June 1, 1765, seems fully to have recognized the necessity of obtaining New York confirmations of the Wentworth charters (*N. Y. Hist. Soc. Coll.*, 1923, p. 40).

Jurisdiction of the Province of New York and being willing to secure their Possessions by his majesty's Letters patent under the seal of this Province and to hold Same under this Government

"Your Petitioners therefore humbly Pray your Honours will be favorably pleased by His Majesty's Said Letters Patent to grant unto your Petitioners and their Heirs in the Proportion of one thousand acres to each petitioner the tract of Land above described and that the same may be erected into a Township by the Name of Windsor with the Privileges usually granted to the Townships of this Province and under the Quitrents and Restrictions appointed by his Majesty's Instructions—And your Petitioners shall ever Pray &c

New-York August : 17 : 1765

Zedekiah Stone

David Stone Jun^r

Nath Stone

In behalf of themselves
and the rest of the
Petitioners."

Why the foregoing paper was not sufficient for the purpose for which it was intended is not obvious. We have called it the first petition because the other petition on the same subject, although not dated by the subscribers, bears in pencilled writing on its face the date of September 11, 1765.¹ By comparing the two it is possible to conjecture reasons why the latter should have been deemed the preferred form. What we term the second petition follows:

"To the Honorable Cadwallader Colden Esq^r Lieut. Governor and Commander in Chief in and over the Province of New York & Territories thereon depending in America

In Council

"The Petition of Zedekiah Stone, Nathan Stone and David Stone y^e second in behalf of themselves and Twenty other Persons

Humbly Sheweth

"That there is a Certain Tract of Land now lying in this Province called by the Name of Windsor a little more than

¹ N. Y. Sec'y State's office, *Land Papers*, XIX, 155.

Six miles Square and Bounded as follows viz^t. Beginning at a Black Ash Tree (Standing on the West Bank of Connecticut River) marked with the figures Two & Three and Runs from thence West Sixteen Deg^{rs} North Six Miles, then North Six Degrees East Six Miles & fifty-six Rod, then East Sixteen Deg^{rs} South Six miles and Quarter to a maple Tree on the said Bank of the River marked with the figures Three & four, then Down said River to the Tree first mentioned, Bounding Easterly on Said River Southerly on a Township called Weathersfield, Westerly on a Township called Reading, and Northerly on a Township called Hertford. That your Petitioners and their associates held the same by a Grant from Governor Wentworth. That they Thought their Title was good and Settled about Sixteen famalies thereon, and there would have been as many more Settled on the Same by this time had it Not been Laid to this Province by a Resolve of the King and His Privy Council on the 20th of July 1764. Yet Notwithstanding they are willing and Desirous to Secure their Property, possessions & Improvements by Obtaining His Majestys Grant Under the Seal of this Province and to hold the same therefrom (and proceed to make further Settlements on the Premises). Your Petitioners for themselves and their Associates therefore Humbly prays that in Consideration of the Equity of their Cause your Honours will be favorably pleased by His Majestys Letters Patent to Grant to your Petitioners & their Associates their Heirs and Assigns forever the said Tract of Land Containing upwards of Twenty-three Thousand and Six Hundred acres and that the same may be erected into a Township by the Name of Windsor and vested withe the same Powers and Priviledges as other Towns in this Province have and Do enjoy.

and your Petitioners as in Duty

Bound shall Ever Pray

Zedekiah Stone

Nathⁿ Stone

David Stone second"

It will be observed that this latter petition was in behalf of exactly twenty-three persons—probably to meet a require-

ment of law that not more than one thousand acres could be directly granted by the Province of New York to one individual. The definite recital that the land is within the Province of New York distinguishes this petition from the earlier one. A further distinction is the omission in the second petition to allege the acreage by strict measure. This perhaps gave the surveyor-general of New York more excuse for making a new survey and collecting his fee. The first petition alleges a former grant by the Province of New Hampshire; the second, a former grant by Governor Wentworth. It is easy to surmise why Colden and the Provincial Council of New York considered the latter form of allegation the more desirable. As to the individual petitioners, Nathan Stone's name, probably through oversight, did not appear in the introduction of the first petition, while in the second petition it was inserted and the name of his brother David was more accurately termed "David Stone ye second" rather than "David Stone Junior."

Both petitions, however, according to memoranda endorsed thereon, came before the Provincial Council of New York on October 29, 1765, but although both are endorsed as having been granted on that day, it is probable that favorable action was taken only on the later one. The endorsement on the later petition also contains the words "warrant of survey to issue dated day of . Gw. Banyar, Dep. Clerk." On the strength of such action by the Council it might have been expected that the business was practically settled, but no such good fortune attended the petitioners, as they subsequently learned to their annoyance and sorrow.

While in New York City the Windsor representatives became interested in the efforts to secure separate county organization for the townships on the New Hampshire Grants. The first step in that direction had been taken by Thomas Chandler, who has already been mentioned, and by four other persons, none of whom was an inhabitant of Windsor. Their plan, contemplating the erection of five separate counties, was obviously too elaborate for so scantily populated a region, and was quickly recognized as such by Chandler himself and by the men of Windsor. Accordingly, within a week after Chandler had submitted his first proposal, Zedekiah Stone, Nathan

Stone, Joseph Wait, and Benjamin Wait joined with Chandler and seven other persons in a petition for the erection of a single county to comprise all the region between the Connecticut River and the Green Mountains, lying north of the Massachusetts line and south of the forty-fifth degree of north latitude. With great discretion the petitioners suggested "Colden" as the name of the proposed county. Probably out of deference to Thomas Chandler and perhaps as the price of his giving up his original proposal, they designated Flamstead (Chester), his home town, as the county seat. This petition is undated, but it came before the Provincial Council October 15, 1765. It is printed in full on page 359 of the fourth volume of the *Documentary History of New York*.

Within a week a more urgent petition along the same lines, signed by Zedekiah Stone, Nathan Stone, and four other persons, appeared at the Council Chamber. This paper contains the interesting assertion that "it is now near six months since to our knowledge we became inhabitants of this Province," indicating that the subscribers had not only heard the news of the boundary decision in the spring of 1765 but had been living on the Grants since about that time. They lamented the fact that the region was without law, that creditors could not collect debts, that a murder¹ had been committed "between the Upper and Lower Cowass and one man more missing that is supposed to be murdered by the same Villin." Altogether they foresaw nothing but lawlessness for their region unless they secured a county government. "And now upon the whole," they closed, "may it please your Honours, we apprehend there is sufficient evidence to Induce your Honours to grant a County as prayed for and hope y^e same may be forthwith accomplished and we Dismissed to Return to our Severall homes with pretention of Law."²

The petition for the new county failed, although the Provincial Council soon saw the need of appointing justices of the peace and constables to maintain order on the Grants. How long Zedekiah and Nathan Stone remained in the city after the disposal of the last county petition on October 22, there is no way of determining. By that date David Stone, Joseph

¹ See Wells's *History of Newbury*, p. 44.

² 4 *Doc. Hist.* 360.

Wait, and Benjamin Wait had probably left for Windsor. Perhaps the favorable vote of the Council on the township re-grant on October 29, sent Nathan Stone and his father home ~~on~~ that day in the belief that the more important part of their errand had been successful. A stay of but three days more would have made them witnesses of the Stamp Act riots and the burning of Cadwallader Colden's coach by the mob. One cannot help wondering if the younger Stones and the Waits did not tarry in the city long enough for such excitement, and so learn the art of mob violence which they themselves practiced at Windsor less than five years later.

CHAPTER X

SIR HARRY MOORE

ON the 12th of November, 1765, arrived at New York City Sir Henry Moore, the new governor of the Province of New York. This amiable character is delightfully described by Mrs. Anne MacVicar Grant in her *Memoirs of An American Lady*. Testifying as an eye-witness, she says of him: "Sir Harry, like many of his predecessors, was a mere show governor, and old Cadwallader Colden, the lieutenant-governor, continued to do the business, and enjoy the power in its most essential branches, such as giving patents for lands, etc. Sir Harry, in the meantime, had never thought of business in his life; he was honorable as far as a man could be so, who always spent more than he had; he was, however, gay, good natured, and well bred, affable and courteous in a very high degree, and if the business of a governor was merely to keep the governed in good humor, no one was fitter for the office than he, the more so, as he had sense enough to know two things of great importance to be known: one was, that a person of tried wisdom and good experience like Colden, was fitter to transact the business of the province, than any dependent of his own: the other, that he was totally unfit to manage it himself." ¹

To this description of Sir Henry Moore, Governor Hiland Hall, in his *Early History of Vermont*, deprecatingly adds that "though well meaning he was indolent and frivolous and addicted to social pleasures and amusements, and was consequently in the ordinary affairs of his government influenced and led by those about him."² The gravity of these charges need not cause tears. Governor Hall derived his information from Mrs. Grant's description, which has just been quoted, and from the following passages of her charming *Memoirs*, which surely cannot reasonably bear so dreadful an interpre-

¹ *Memoirs of An American Lady* (1901 ed.), vol. II, pp. 132-133.

² H. Hall's *Early History of Vermont*, pp. 83-84.

tation as our righteous Governor Hall has placed upon them. Mrs. Grant thus proceeds: "The government house was the scene of frequent festivities and weekly concerts, Sir Henry being very musical, and Lady Moore peculiarly fitted for doing the honors of a drawing-room or entertainment. They were too fashionable, and too much hurried to find time for particular friendships, and too good natured and well bred to make invidious distinctions, so that, without gaining very much either of esteem or affection, they pleased every one in the circle around them; and this general civility of theirs, in the storm that was about to rise, had its use." ¹

It may not be the proper function of this History or any article on Vermont history to speak lightly of the *Early History of Vermont* by Governor Hiland Hall. Nevertheless at this stage of the narrative now being recited come both the opportunity and the provocation to make a point of one of Governor Hall's forgivable failings. Merely compare his description of Moore with Mrs. Grant's. Governor Hall purposely omitted the complimentary allusions to Colden because to include them would mar the argument in condemnation of Colden which Governor Hall was making in the *Early History of Vermont*. He paraphrased in commonplace language what Mrs. Grant had so picturesquely written of Moore's social side, and he did so not because he could not see the historical value of what she wrote, but because he preferred to say as little as possible in the way of making Moore appear attractive. For anything pretaining to what Governor Hall called "aristocracy" he had an almost childish aversion. Nor is it impossible that his feelings in this regard were unduly aroused by that "aristocratic" lady, Mrs. Anne MacVicar Grant, who had elsewhere spoken of the settlers of southwestern Vermont as "these very vulgar, insolent and truly disagreeable people." ² A careful checking of the *Early History of Vermont* with the documents on which Governor Hall relied will reveal too many instances of partisan and unjust interpretations to permit unmixed confidence in his book. Yet his history is the result of earnest and painstaking work and con-

¹ *Memoirs of An American Lady* (1901 ed.), vol. II, p. 133.

² *Memoirs of An American Lady* (1901 ed.), vol. II, p. 137.

tains a notable collection of historical matter. Its value, though, is that of the brief or argument rather than that of a history.

From the beginning to the end—perhaps like this *History of Windsor*—Governor Hall's book has the tone of the lawyer's plea. Mr. Eliakim P. Walton, editor of the valuable *Governor and Council*, really strikes the keynote of the *Early History of Vermont* when he says that by it Benning Wentworth "is amply vindicated."¹ That, no doubt, was one of Governor Hall's objects, and, if attained, would have been an achievement little short of miraculous. But, with due respect to Mr. Walton, no power this side of the Judgment Seat could or ever will vindicate Benning Wentworth. The most that humans can do is to wish peace to the ashes of that competent, eminent, and not unkindly royal governor and a final pardon for his transgressions.

Early in Sir Henry Moore's administration there was current an impression that the township of Windsor might not be re-granted in its entirety to the inhabitants. At the time of Governor Moore's arrival in New York there was pending a very important petition on behalf of the Earl of Ilchester, Lord Holland, and others for land grants in several of the Connecticut valley townships. Among other lands, this petition sought twenty thousand acres in Weathersfield and Windsor. Both B. H. Hall in his *History of Eastern Vermont*² and Governor Hiland Hall in the *Early History of Vermont*³ refer to this application. The latter went into the history of the subject with zest, since it afforded him the opportunity to air a scandal in a family of the British nobility and thus to make one of his frequent digs at "aristocracy." Indeed Governor Hall chortled at his best and not without eloquence in the passages relating to the Ilchester application. However, neither he nor Mr. B. H. Hall related what finally became of the petition, nor has the writer of this volume ascertained how the petition was finally disposed of. Perhaps it never came before the Provincial Council for final action. That it was at one

¹ *Governor & Council*, p. 371.

² B. H. Hall's *History of Eastern Vermont*, pp. 140-141, note.

³ H. Hall's *Early History of Vermont*, pp. 82-83.

time in a fair way to be granted may be inferred from the following paper in volume XX of *Land Papers* in the Secretary of State's office at Albany at page 112:

"To His Excellency Sir Henry Moore, Baronet, Governor & Captain General of the Province of New York & the Territories thereon depending etc., etc.

The Petition of Joshua Loring, Esq^r

Captain of the Royal Navy

Sheweth:

"That your Petitioner having had the Honour of commanding His Majesties Ships on the Lakes in North America during the Late War, is entitled to 5000 acres of vacant Land agreeable to His Majesties Proclamation. He therefore prays your Excellency will be pleased to allow him to Locate said 5000 acres in the Township of Reading adjoining to lands located for the Earl of Ilchester & others in the Township of Windsor.

New York, 30 December, 1765.

Jos^a Loring."

Whatever temporary obstacle the Ilchester petition may have been to the re-grant in entirety of the township of Windsor, Sir Henry Moore found it possible on May 29, 1766, to issue to the surveyor-general a warrant for the survey of the township "for Zedekiah Stone, Nathan Stone and David Stone the second and their associates." Before this date Cadwallader Colden had succeeded in having his son Alexander appointed to the post of surveyor-general of the Province of New York. The latter deputed Samuel Stone to do the actual surveying of Windsor. By July 7, 1766, Samuel Stone had completed the survey and had placed it in the hands of the surveyor-general, who made the following return to the Provincial Council:

"Pursuant to a Warrant from his Excellency Sir Henry Moore, Baronett, Captain General and Governor in Chief in and over the province of New York and the Territories depending thereon in America, Chancellor and Vice Admiral of the Same, bearing date the twenty-ninth day of May Last past

"Surveyed by Samuel Stone for Zedekiah Stone, Nathan Stone and David Stone the second and their Associates All that certain tract of Land called by the name of Windsor, Situate, Lying and being on the West side of Connecticut River in this Province and in the County of Cumberland Beginning at a Black Ash tree Standing on the West Bank of the said River marked with the figures two and three for the Northeast Corner of Weathersfield and runs thence North seventy-four degrees West four hundred and eighty chains Then North six degrees East four hundred and ninety-four chains Then South seventy-four degrees East five hundred chains to Connecticut River then down the stream of the said river as it runs to the place where this tract first Began Containing twenty-four thousand three hundred acres of Land and the usual allowance for highways.

"Given under my hand this seventh day of July
one thousand seven hundred and sixty-six.

Alex^r Colden
Surveyor Genl."

Attached to this return is a rough outline map of the township with the several courses and distances and containing in the center the legend "Windsor Plotted from a Scale of One hundred Chains in an Inch. Alex^r Colden, Surveyor Genl." The return and map together form one document in volume XXXI of the *Land Papers* in the Secretary of State's office at Albany, page 17.

Mr. Benjamin Homer Hall states at page 114 of his *History of Eastern Vermont* that the government of New York granted the township of Windsor to David Stone 2d and his associates on July 7, 1766, the date of the surveyor-general's return. This cannot have been the fact, for at the foot of the proposed list of grantees of Windsor, submitted for the information of the Provincial Council, is the following memorandum: "1766 July 9. Read in Council & the Grant to issue to the said persons accordingly. Gw: Banyer, Dep. Cl." In fact, the council minutes for July 7 show no allusion to Windsor matters, while the minutes for July 9 show that the subject came up and that the Council voted to regrant the township to the persons

mentioned in the list omitting the last name. This list, entitled "List of names to be inserted in the Patent for the Township of Windsor," is preserved in the office of the Secretary of State at Albany in volume XIX of the *Land Papers*, page 155. In it one might expect to find the names of all the actual New Hampshire proprietors at that date and only those. Curiously enough, the list does not contain all who were known proprietors and settlers in Windsor in July, 1766, and among the twenty-five names in the list are the names of ten men who never had had any connection whatever with Windsor, and who were to be made temporary grantees solely for the purpose of holding an interest in the land until the inhabitants of the township had raised and paid the heavy costs of the regrant. The names of the ten are italicised in the list which follows, viz., Zedekiah Stone, Nathan Stone, David Stone, Sam¹ Stone, Israel Curtis, Jacob [Joab] Hoisington, Steel Smith, Willard Stevens, Enos Stevens, Joel Stone, Thomas Cooper, *David Young, William Pearson, Robert McGinnis, John Armstrong, John Fitzpatrick, George Wilson, Peter Prim, Wm. Swan, Martha Stone, Alexander Dulles,¹ John Paisley,²* Mary Stone, Samuel Hunt, Joshua Willard. The last three names are written in a hand that looks like Nathan Stone's and bring the total number to twenty-five. In the Council Minutes Joshua Willard's name is dropped, thus leaving—unless the omission was a clerical error—twenty-four as the number of grantees to be named in the New York patent.

The *Calendar of Historical Manuscripts* in the Office of the Secretary of State of New York mentions a "certificate of sale" of the township of Windsor to Zedekiah Stone, Nathan Stone, and David Stone 2d under date of July 14, 1766, but this paper, like many others pertaining to the history of Vermont, seems to be missing and perhaps was destroyed in the fire at the Capitol at Albany in 1911. In the same fire was very likely lost a certain deposition of Robert McGinnis that he had ex-

¹ Alexander Dallas.

² The New York grantees were residents of New York City. Young and McGinnis were innholders; Pearson and Fitzpatrick were yeomen; Wilson and Paisley were merchants; Prim a mariner; Dallas a dyer; Armstrong a peruke maker, and Swan a schoolmaster.

ecuted a deed of trust for lands in Windsor in favor of Nathan Stone.

There is, however, among the manuscripts of the Vermont Historical Society at Montpelier a parchment document which, if not an original "certificate of sale" of the Township of Windsor, is either a duplicate original of the same or a certificate of the New York Provincial Commissioners' award or allotment of the Township to Zedekiah Stone and twenty-four named associates. Beautifully penned, subscribed with the handsome signatures of Governor Sir Henry Moore, Receiver-General Andrew Elliot, and Surveyor-General Alexander Colden, and embellished with an outline map of the township, this paper, bearing date July 14, 1766, forms one of the links in Windsor's history. At the risk of overloading this volume with too many documents we give the certificate herewith:

"BY HIS EXCELLENCY SIR HENRY MOORE
Baronet, Captain General and Governor in Chief in
and over the Province of New York, and the Terri-
tories depending thereon in America, Chancellor, and
Vice Admiral of the same. Andrew Elliot Esquire
Receiver General of the said Province; and Alexan-
der Colden Esquire Surveyor General of the same
Province—Commissioners appointed by his Majestys
Instructions for the Setting out of all Lands to be
granted within the said Province.

"To all to whom these Presents shall come GREETING.
WHEREAS Zedekiah Stone, Nathan Stone and David Stone
the Second, in behalf of themselves and twenty other Persons,
by their humble Petition presented to the Honourable Cad-
wallader Colden Esquire, Lieutenant Governor and then Com-
mander in Chief of the said Province, and read in Council on
the twenty ninth day of October last, did Set forth, That there
is a certain Tract of Land lying in this Province called by the
Name of Windsor, a little more than six Miles square, and
bounded as follows, Viz: Beginning at a black Ash Tree (stand-
ing on the West bank of Connecticut River) marked with the
Figures Two and Three, and runs from thence West sixteen

Degrees North six Miles; Then North six Degrees East six Miles and fifty six Rod; Then East sixteen Degrees South six Miles and a Quarter to a Maple Tree, standing on the said Bank of the River, marked with the Figures three and four; Then down said River to the Tree first mentioned; Bounding Easterly on said River; Southerly on a Township called Weathersfield; Westerly on a Township called Reading; and Northerly on a Township called Hertford. That the Petitioners and their Associates held the same by a Grant from Governor Wentworth; That they thought their Title was good and settled about Sixteen Families thereon; and that there would have been as many more settled on the same, had it not been laid to this Province by a Resolve of the King and his Privy Council on the twentieth of July One thousand seven hundred and Sixty four: That they were willing and desirous to secure their Property, Possessions & Improvements by obtaining his Majesty's Grant under the Seal of this Province, and to hold the same under such Grant, and to proceed to make further Settlements on the Premises—And therefore in Consideration of the Equity of their Case, they humbly prayed his Majesty's Letters Patent granting to the Petitioners and their Associates, their Heirs and Assigns for Ever, the said Tract of Land, containing upward of Twenty three thousand and six hundred Acres. And that the same might be Erected into a Township by the Name of Windsor, and vested with such Powers and Priviledges as other Towns in this Province have and do Enjoy; Which Petition having been then and there referred to a Committee of his Majesty's Council; his Majesty's Council did afterwards on the same Day, in pursuance of the Report of the said Committee, humbly advise the said Honourable Cadwallader Colden Esquire, Lieutenant Governor, and then Commander in Chief as aforesaid, to Grant the prayer thereof: Under the Quit Rent, Provisoos, Limitations and Restrictions prescribed by his Majesty's Instructions. In Pursuance whereof and in Obedience to his Majesty's said Instructions, We the said Commissioners, Do hereby Certify, that We have set out for the said Zedekiah Stone, Nathan Stone, and David Stone; and their Associates Samuel Stone, Israel Curtis, Jacob Hoisington, Steel Smith, Willard Stevens,

Enos Stevens, Joel Stone, Thomas Cooper, David Young, William Pearson, Robert McGinnis, John Armstrong, John Fitzpatrick, George Wilson, Peter Prim, William Swan, Martha Stone, Alexander Dalles, John Paisley, Mary Stone, Samuel Hunt and Joshua Willard; All that certain Tract or parcel of Land situate lying and being in the County of Cumberland within the Province of New York, on the West side of Connecticut River, called and known by the Name of Windsor: Beginning at a black Ash Tree standing on the West Bank of the said River, marked with the Figures Two and Three, for the Northeast corner of Weathersfield; and runs thence North Seventy four Degrees West four hundred and eighty Chains; Then North six Degrees East four hundred and ninety four Chains; Then South seventy four Degrees East five hundred Chains to Connecticut River; Then down the Stream of the said River as it runs to the place where this Tract first began: Containing Twenty four thousand and three hundred Acres of Land and the usual Allowance for Highways—And in Setting out the said Tract of Land We have had regard to the profitable and unprofitable Acres, and have taken Care that the Length thereof doth not extend along the Banks of any River, otherwise than is Conformable to his Majesty's Instructions for that purpose.— Given under our Hands at the City of New York, the fourteenth day of July One thousand seven hundred and Sixty six, in the sixth Year of the Reign of our Sovereign Lord George the Third by the Grace of God of Great Britain France and Ireland King Defender of the Faith and so forth.

H. Moore
Andrew Elliot
Alex^r Colden”

In the summer of 1766 something occurred to delay the actual issuance and delivery of the New York patent for the township of Windsor, although from what will later appear one was signed on July 19. Chester's patent came out on July 14, Brattleboro's on July 22, Hertford's (Hartland's) on July 23 and, after some delay, Putney's on November 14; but none that can now be found for Windsor. What the difficulty

was is not clear. It is true that on June 6 the Provincial Council had ordered all applicants for township re-grants to produce within three months their New Hampshire charters and all deeds, conveyances or other papers through which they claimed title, under the penalty of having their applications rejected; yet the Council's vote on July 9 to issue the patent for Windsor in favor of twenty-four named persons and the certificate of sale or certificate of award or allotment of July 14 certainly indicated that the Windsor petitioners had met at least some of the requirements of the order of June 6. The status of the Putney application was the same, but the Putney patent was duly issued on November 14. It may here be observed that there appeared in the *New York Mercury* for September 1, 1766 (a newspaper published in New York City by Hugh Gaine) the following important advertisement:

"New Hampshire Grants

"Notice is hereby given to all persons concerned in any of the New Townships granted by his Excellency, Governor Wentworth, under the Great Seal of the Province of New Hampshire (which said Townships have since been claimed by the Government of New York, in consequence of their falling within a line being run agreeable to his Majesty's Orders, for the better settling the Boundaries of each respective Province) that they appear either themselves or by their Attornies, at the House of Mr. Hugh Rider, in New York, on Monday the 13th of October next ensuing the Date hereof, then and there to consult on proper Measures to be taken relative to obtaining a confirmation of the said Grants under the Great Seal of the Province of New York; and it will be necessary for the proprietors of each Township, that they bring proper Vouchers of their being so constituted and appointed; and also the original patents and Grants of each Township.

"N.B. The above Advertisement was agreed to, and desired to be inserted in all the public Papers, by a large Meeting of some of the principal Proprietors in sundry of the said Townships at the House of Mr. Hugh Rider aforesaid on this 29th day of August."

On October 9 thirteen of the Windsor proprietors conveyed all their interest in the township to Nathan Stone.¹ This deed presumably is the one referred to in *Thompson's Gazetteer of Vermont* and in *Thompson's Vermont* in the following passage: "During the controversy between the government of New York and New Hampshire respecting the jurisdiction of the territory now forming the State of Vermont, the proprietors of Windsor became alarmed for their title, and conveyed their respective rights of land, in trust, to Col. Nathan Stone. . . ." ² As a matter of accurate description, the conveyance to Nathan Stone was not "in trust": the conveyance was absolute and reserved no equity whatever to the grantors. Although, from Thompson's language, one would expect to find that all the Windsor proprietors joined in the deed, the record shows but thirteen, viz., Enos Stevens, Martha Stone, Willard Stevens, David Stone, Joshua Willard, Samuel Hunt, Israel Curtis, Zedekiah Stone, Samuel Stone, Thomas Cooper, Joab Hoisington, Joel Stone, and Steel Smith. These are the same persons whose names appear in the list submitted to the Provincial Council of New York on July 9, omitting the ten nominees of the New York government and omitting, also, Mary Stone, who was the wife of Nathan Stone and who, if she was an actual property owner, presumably could not make a valid deed in favor of her husband. The witnesses of the deed were Andrew Norton, John Evarts, John Benjamin, Benjamin Wait, and Caleb Stone. All the grantors are stated to be inhabitants of Windsor except Willard Stevens, Samuel Hunt, and Joshua Willard, who lived at Charlestown, New Hampshire. Enos Stevens, though stated to be of Windsor, had lived at Charlestown and his residence in Windsor could have been but temporary.

A striking feature of this deed of October 9, 1766, is the recital that "his present Majesty by Letters Patent under the Great Seal of the Province of New York dated the Nineteenth day of July, 1766, Did Grant unto the said Parties to these Presents and others as Tenants in Common in Fee simple Certain Lands . . . on the west side of Connecticut River

¹ 3 *Windsor Deeds*, pp. 24-27.

² *Thompson's Gazetteer*, p. 292; *Thompson's Vermont*, part III, p. 195.

called and known by the name of Windsor." Here, then, is a definite statement that there was a New York patent for Windsor. Not only were the Windsor signers of the deed of October 9 of the belief that such a patent existed, but the ten New York men whose names were mentioned in the certificate of award or allotment of July 14, actually signed under seal another deed conveying to Nathan Stone under date of July 23, 1766, all their interest in the township of Windsor granted by "our now Sovereign Lord, King George the third by his Letters Patent under the Great Seal of the Province of New York bearing Date the Nineteenth day of July Instant." The witnesses to the latter deed were James Rogers, Willard Stevens, and Samuel Stevens. The originals of these two deeds are among the Vermont Historical Society's manuscripts.

Unquestionably, therefore, there must have been a New York patent for Windsor, antedating by nearly six years the existing New York charter or patent of 1772 on which depend the titles to all of Windsor's real estate. Either the earlier patent was never actually delivered to Nathan Stone by reason of some unperformed condition on his part, or, if actually delivered, was afterwards withdrawn and suppressed.

Of course, if the deed of October 9 to Nathan Stone was intended to meet the requirements of the Council's order of June 6, it will strike the reader as a belated compliance. Its execution was not acknowledged until November 24, nor did the certificate of acknowledgment appear perfect as to execution by either of the Stone women or Willard Stevens. In this connection we should notice the remark of Sir Henry Moore in a letter to Lord Shelburne, where, in speaking of the order of June 6, he says, "altho it was not strictly complied with as to the time limited, no advantage was taken of such Delay. . . ." Yet whether the deed of October 9 was or was not in time, or whether it was or was not otherwise sufficient, there appears to have been no further progress in securing a confirmatory grant from New York for more than five years except an order of the Council on January 7, 1767, to substitute the name of Caleb Hyatt for that of Alexander Dallas as one of the Windsor grantees. Dallas, whose name is occasionally written "Dulles," had omitted to endorse the

receipt of the consideration on the back of the deed of July 23.

The procedure for securing re-grants was made still more exacting by an order of the New York Provincial Council on February 12, 1767, providing that action on all pending petitions for re-grants be suspended until the principal proprietor or proprietors of each township should appear before the Council with due authorization on behalf of all persons interested in the township and be prepared to furnish the fullest information respecting the shares of the several claimants.¹ Any attempt, after one hundred and sixty years, to give the reason for Colonel Nathan Stone's failure to secure in 1766 the confirmatory patent for Windsor is mere guess work. It is likely that in his efforts he did not have the full benefit of the advice which Colonel Josiah Willard extended to the Hartland and Putney proprietors. Nor had he at his command the cunning at wire pulling exhibited by the manager of the Chester application or the popular and attractive qualities of Samuel Wells of Brattleboro. Yet when all is said and done, we are not far advanced as to the reason for Colonel Stone's failure.

Ira Allen in his *History of Vermont* speaks of the issuance of confirmatory patents to "some leading characters on the east side," who, "by yielding up their New Hampshire grants, had new or confirmation grants from New York on paying half fees."² Allen's expression, "leading characters on the east side," would fit Chandler, Wells, and the Willards well enough, and he adds with characteristic animus: "This plan was intended to divide the people, while the settlers on the west side had their lands regranted [to others] and were called on to acknowledge themselves tenants to the grantees under New York." If Allen was correct in his view that the object of the confirmatory patents to Chester, Hartland, Brattleboro, and Putney was to divide the east from the west, he leaves unexplained the omission of the New York government to confirm the titles of Windsor and several other east side townships in behalf of which applications had seasonably been filed. His statement that some of the east side townships secured their

¹ 4 *Doc. Hist.* 364.

² *Allen's Hist.*, p. 20.

confirmatory patents on payment of "half fees," if true, may reveal an initial policy of the New York government with a view to starting a practice in a popular way and then charging full fees on later applications.

There were many complaints of the oppression by the New York government, not only for granting the Vermont lands to other than the New Hampshire proprietors, but for charging such proprietors exorbitant fees for confirmatory patents. Daniel Chipman, the biographer of Judge Nathaniel Chipman, is practically the only Vermont historian who asserts the New York fees for confirmatory patents to have been reasonable enough to warrant compliance with the terms. He points out that those who bought such confirmatory patents were wise and that the practice would have become general but for the insistence of some of the leading characters on the west side of the Green Mountains who were "land poor" through the extent of their speculations in the Onion River Company, and could not possibly raise the funds to secure confirmatory titles. As a matter of fact, these men forced their own wishes upon their neighbors west of the Green Mountains by the passage of a "convention" decree forbidding the solicitation or acceptance of confirmatory charters from New York.¹ While several of the towns on the west side of the mountains, following the examples of the settlers along the Connecticut River, had made application to New York for confirmation charters, none for any town west of the mountains was actually taken out.

Probably Mr. Chipman was referring to the later applications of 1772 rather than to the earlier ones we have been discussing; but somehow Mr. Chipman's theory does not clearly satisfy. While he was not prone, like some of our other Vermont historians, to color facts for the purpose of making a popular story, the truth must have been that the costs of New York patents, whether relatively large or small, extortionate or reasonable, were beyond the means of the proprietors to pay in cash and could only be met by a sale of a part of their lands. In that view of the case, one can appreciate that if the Allens and their fellow speculators had a large tract of land which they intended to exploit as a whole, they would not dare

¹ *Allen's Vt. Hist.* 28; *1 Vt. Hist. Soc. Coll.* 5.

sell a portion of it to outside hostile interests—especially if such interests had the selection. Moreover, land along the Onion River lay far off in the wilderness and must have struck New York capitalists as of such slight present value that an enormous acreage would have had to be sold to raise cash sufficient to defray the cost of confirmation charters.

These reflections perhaps are no more profitable than the tables of figures at pages 153 to 159 in vol. I of the *Collections of the Vermont Historical Society*, which were apparently compiled to show what money the officers of New York *might* have received for granting patents in Vermont if the maximum statutory fees for such patents had been paid, and to arouse in the reader who contemplates the figures a sufficiency of eighteenth-century indignation. The price commonly said to have been charged by the provincial government of New York for a confirmation charter was \$2,300.¹ Assuming a township to contain 23,500 acres, the fee for a New York charter would be something under ten cents per acre. If, as Ira Allen says,² some of the towns on the east side of the Green Mountains received their confirmation charters at half price, the cost was at the rate of less than five cents per acre. To take as correct the tabulation of fees compiled by Governor Hiland Hall and set forth on page 158 of the first volume of the Vermont Historical Society's *Collections* and the statement of the acreage granted by New York, we find that if the maximum official fees were charged the cost, per acre, was a trifle over nine cents.

Both Sir Henry Moore and Cadwallader Colden were emphatic if not explicit in denying extortion in the matter of patent fees, although Colden somewhat unkindly mentioned Sir Harry's insistence on his own fees in certain cases.

If it was not the matter of price that caused Colonel Stone to suspend his quest of the New York patent, it was probably some defect or omission in the papers he was required to supply to the law offices of New York. Sir Henry Moore wrote

¹ Ira Allen's *Miscellaneous Remarks and Short Arguments*, Hartford: 1777; 1 *Vt. Hist. Soc. Coll.* 120; 1 *Gov. & Coun.* 321. See also *Memorial of Lebanon Convention*, 1779; 2 *Gov. & Coun.* 172.

² Allen's *History of Vt.*, p. 20.

with apparent sincerity of the confused state of the New Hampshire titles in some of the townships. Though these titles were but a few years old, there had been so many dealings in individual rights that it was almost impossible to ascertain who were the true owners. There was no place for the recording of transfers of proprietary rights and the best that Sir Henry could do on several of the applications was to take a bond from some of the principal proprietors conditioned on their distributing and re-conveying to the real owners the land covered in the patent.¹

Another point of difficulty had arisen in the circumstance that some of the petitioners, either inadvertently or purposely, failed in the beginning to acquaint the New York authorities with the fact that the New Hampshire charters had reserved certain rights for the Church of England and the Society for the Propagation of the Gospel in Foreign Parts. In this respect the Stones had been delinquent, as appears by a reference to the Windsor application in the *New York Narrative of 1773*. In Appendix XXI of the *Narrative* is a report of a discussion in the New York Council chamber on June 10, 1767, with relation to the early applications for confirmatory grants. From this report it appears that soon after the announcement of the boundary adjudication of July 20, 1764, "the grantees of the townships of Newbury, New-Flamstead, New-Windsor, and Hallifax applied for Grants under this Government, and not producing their Charters, and the Government here not being at that Time informed that it had been usual to reserve any Shares of such Townships for public Uses, no such reservations were made on the granting of the Petitions for these four Townships. That the Letters Patent for the Townships of Newbury, New Windsor, and Hallifax *having not yet passed the Seals*, it still remains with his Excellency to make those Reservations in these Cases: That as soon as the Council discovered by the Charters of New Hampshire such proportion of Land had been granted or reserved for public Uses, the like Reservations were made here in every Instance. . . ."

From these minutes of the Council's proceedings it is clear that the re-grant of New Flamstead (Chester) on July 14,

¹ 4 *Doc. Hist.* 372.

1766, antedated the discovery of the reservations in the New Hampshire charters. By that time the proceedings for the confirmatory patent of Windsor had gone as far as the issuance of a certificate of sale or award of Windsor to Zedekiah, Nathan, and David Stone. Yet this discovery could hardly account for the subsequent long delay in the Windsor application, because the applications on behalf of Hartland and Putney, which admittedly were affected by the same discovery, came through successfully. The hitch in the Windsor proceedings must have been due to other causes not now clearly ascertainable, but probably similar to those affecting Newbury, Halifax, and other towns on the east side of the Green Mountains. Perhaps a strict compliance with the Provincial Council's order of February 12, 1767, was impossible. On the other hand, Windsor's New York patent may have been one of the three which Governor Moore said merely awaited his signature when he received the letter of Lord Shelburne, dated April 11, 1767, directing that, for the time, no more grants west of the Connecticut River should be made.¹ The situation of the townships on the west side of the mountains was complicated by the fact that their boundaries in some cases overlapped the ancient Hoosick and Wallumschaak grants of the New York government and in others were overlapped by recent patents issued by Cadwallader Colden. Then, too, if Daniel Chipman was correct, the circumstances of the men of most prominence on the west side of the mountains was such that they could not comply with the pecuniary conditions necessary to secure confirmatory patents and the influence of these men set an example of hostility to the practice of paying a price for such patents.

In the somewhat famous application to the Crown through Samuel Robinson, of Bennington, for relief against the authorities of New York in the matter of re-granting Vermont lands, the settlers on the east side of the Green Mountains did not join. This at least seems to have been the view of Governor Moore² and we find no evidence to the contrary.

¹ 4 *Doc. Hist.* 367.

² 4 *Doc. Hist.* 367, 373.

CHAPTER XI

CUMBERLAND AND GLOUCESTER

VERY early in his administration Governor Moore had conceived the idea of organizing two militia regiments from the settlers on the New Hampshire Grants. Possibly Thomas Chandler, of Chester, had impressed him with the value of such a move, since the plan involved the appointment of Chandler as the colonel of one of the regiments. The other was to be in the command of Jacob Bayley, of Newbury. Nathan Stone assisted Chandler in canvassing the Grants to ascertain the number of men available for the militia, with the result that on January 20, 1766, Chandler made to Governor Moore the astounding report that the number of men fit to bear arms in Chandler's proposed regiment was about six hundred, while the number available for Bayley's was about three hundred.¹

The governor, as he afterwards stated in a letter to Lord Shelburne, was so amazed by the size of Chandler's figures that he undertook to cross-examine the candidate for a colonelcy, and elicited the information that "a great number of families concerned in those Lands resided either in New England, New Hampshire, or Connecticut, and had never been upon them; some of the most active young people out of each family were sent there to begin the Settlement^{ts} many of whom at the close of the summer returned to their Homes, others more industrious continued there in the Winter that by forwarding their improvements they might more readily pave the way for those who did not choose to encounter all the difficultys of a New Settlement but waited until some improvements were made before they removed."² Still, even if a majority of the members of the proposed new regiments were only summer residents or had still to make their first visit to the Grants, Sir Harry would not disappoint Chandler, and presently gave him a colonel's commission with authority to form a regiment. Nathan Stone was also commissioned a

¹ 4 *Doc. Hist.* 363.

² 4 *Doc. Hist.* 368.

second colonel or a lieutenant colonel. Ira Allen speaks of him as a colonel, and from 1766 to Nathan Stone's death he was known as Colonel Nathan Stone.

Another early step toward organizing the Grants, and in half-hearted response to the repeated petitions for county government, was the issuance on January 20, 1766, of commissions for justices of the peace for Albany County to twenty-one of the settlers. Among the twenty-one new justices of the peace was Nathan Stone. On February 27, 1766, Joel Stone was chosen by the justices of the peace a constable for the township of Windsor, and may therefore be regarded as Windsor's first town officer.

The summer of 1766, near the time that Windsor's petition for a re-grant had come again before the Provincial Council, brought Nathan and David Stone, Joseph Wait and Benjamin Wait once more to the city of New York. Their mission was not solely on township matters. Nathan Stone with Thomas Chandler, Samuel Wells, James Rogers, and Simon Stevens made the fourth application for a regular county government, while Captain Joseph Wait, Lieutenant David Stone, and Ensign Benjamin Wait in their own behalf sought individual patents for lands in consideration of military services rendered as "Rangers." This time the application for a separate county government succeeded and under date of July 3, 1766, the Provincial Legislature of New York enacted a statute erecting the county of Cumberland.

Mr. B. H. Hall, at page 1 of his *History of Eastern Vermont*, states that the new county "probably received its name from Prince William, the Duke of Cumberland, who in 1746 met with distinguished success in opposing the rebels in Scotland." It embraced generally all the territory between the Connecticut River and the Green Mountains, from the Massachusetts line northward to the northern boundaries of Norwich, Sharon, and Linfield (Royalton). The final petition—that of June 16, 1766—for the establishment of a county was unfortunately not copied in the *Documentary History of New York*, and the original was burned in the Capitol fire in 1911.

Governor Hiland Hall states that the object of erecting Cumberland and Gloucester Counties was to create offices and

so win favor for the New York government among the settlers on the east side of the Green Mountains.¹ It seems to be the case that the county offices in Cumberland County went mainly to those who had been active in making petitions for a county government and to those whose applications for township patents had received favorable consideration. For instance, the three judges of the court of common pleas, viz., Thomas Chandler, Joseph Lord, and Samuel Wells, were of Chester, Putney, and Brattleboro, respectively. Except for the justices of the peace, who were appointed in nearly all the settlements, Chester, Putney, Brattleboro, and Hartland secured more than fair representation among the office-holders. Windsor, in spite of not gaining a township re-grant, did fairly well. Nathan Stone, besides being a "colonel," became the high sheriff of Cumberland County, Israel Curtis became a justice of the peace, and Zedekiah Stone was appointed both justice of the peace and an assistant justice of the court of common pleas. All of these commissions, according to Mr. B. H. Hall, were dated July 16, 1766.

A considerable part, if not most of the court records of Cumberland County are lost,² and writers have alluded to such loss as something of a mystery. Yet in the turbulent days of Vermont's birth there was plenty of opportunity, as there was incentive, to destroy records which were full of entries both mortifying and annoying to the settlers on the New Hampshire Grants. The land records, in two volumes, still remain in the office of the clerk of Windham County, where also are some of the Court records beginning with 1772. In volume one of land records the first deed was recorded October 21, 1766. In this book may be found several of the early deeds of Windsor real estate. These should be transcribed and recorded in the town clerk's office at Windsor.

The life of the first Cumberland County was short. Following Samuel Robinson's application to the Crown for relief against the hard terms imposed by the New York authorities in re-granting the township charters came an order of the King in Council under date of June 26, 1767, disallowing the

¹ *Early History of Vermont*, pp. 154, 155.

² See 5 *Hemenway's Vt. Gazetteer*, p. 9; 5 *Crockett's History of Vt.*, p. 10 *et seq.*

act of the Provincial Legislature under which the county had been created.¹

On March 18, 1768, the New York provincial government by letters patent erected a new county by the name of Cumberland, with boundaries nearly the same as the original. Two years later Gloucester County was organized, embracing territory to the north of Cumberland. These two new counties were probably named out of compliment to two very gay brothers of King George the Third, namely, Henry Frederick, Duke of Cumberland, and William Henry, Duke of Gloucester. In coincidental association with the name of Windsor, it may be noted that the former became "ranger of Windsor Great Park" in 1765, and that in December, 1767, according to *Dodsley's Annual Register*, "at a meeting of the corporation of Windsor it was unanimously agreed to present the dukes of Gloucester and Cumberland with the freedom of that ancient borough." Although, according to the *Dictionary of National Biography*, these princes led lives that were far from exemplary, it is rather a pity that the names of Cumberland and Gloucester could not have survived the prejudices of Revolutionary days and been preserved as county names in Vermont.

The whole of the New Hampshire Grants lying west of the Green Mountains remained within the County of Albany until the creation of Charlotte County in 1772. The latter county included the northerly portions of the towns of Arlington and Sunderland and embraced territory to the northward on both sides of Lake Champlain.

¹ 4 *Doc. Hist.*, 375, note.

CHAPTER XII

SETTLING THE GOSPEL IN WINDSOR

IN the two preceding chapters are brief allusions to Samuel Robinson's application made to the Crown on behalf of settlers on the New Hampshire Grants for relief against the practices of the New York provincial government respecting re-grants of townships. This application seems to have been sponsored only by settlers on the west side of the Green Mountains,¹ who empowered Samuel Robinson, of Bennington, as their agent to visit England and lay their case before the Crown officers. The powers of attorney under which Robinson acted and the petitions which were handed him form the subject of a chapter in the first volume of the *Collections of the Vermont Historical Society*, at pages 271 to 288.

Among the signers of the petitions and powers of attorney the writer has found the name of no Windsor settler. How far, if at all, the sympathies of the inhabitants of Windsor and other Connecticut Valley townships supported the movement is not known. With the support of the Society for the Propagation of the Gospel in Foreign Parts, the effect was to make useless any further application for township re-grants for some years and also temporarily to relieve apprehension that the townships might be granted to other than the inhabitants. Robinson sailed on Christmas Day, 1766, and, as a result of his representations and those of the Propagation Society, Lord Shelburne wrote Governor Moore on April 11, 1767,² to make no new grants on the west side of Connecticut River, which instruction was followed by a more explicit order of the King in Council on July 24, 1767, to the same purport.³ To this

¹ 1 *Vt. Hist. Soc. Coll.* 4.

² 4 *Doc. Hist.* 365.

³ 4 *Doc. Hist.* 375. Historically, the importance of the Robinson application lay less in the impression it created abroad and in the response it elicited than in showing the state of mind of the purchasers of New Hampshire titles. That the comparatively poor settlers on the New Hampshire Grants actually sent one of their neighbors across the sea to seek redress is eloquent evidence of the gravity of their cause and their confidence in its justness.

instruction and this order Governor Moore yielded completely, and the practice of issuing grants or re-grants in the Vermont region was consequently suspended until after his death, which occurred on September 11, 1769.

The proprietors of Windsor having been disappointed in the efforts to secure the delivery of a township charter or patent from the Province of New York now turned their attention to their own organization. Thomas Frink, of Keene, still continued as their clerk, but so many of the proprietors had settled in Windsor that it seemed best to choose in his stead a resident of the township. Under date of October 5, 1767, there was posted a notice of a proprietors' meeting to be held "at the House of Thomas Cooper in said Town on Tuesday the third Day of November Next at Ten o'clock in the forenoon" for the purpose, among other things, "to chuse a proprietors Clerk."

At this meeting, which is the first recorded meeting of any kind in Windsor, and which took place at Thomas Cooper's bachelor quarters on the day appointed in the notice or warning, Israel Curtis was chosen as Moderator and Thomas Cooper as Proprietors' Clerk. Other matters disposed of at the meeting were the relocation of the "Minister's house lot" north of Zedekiah Stone's farm, a readjustment of Israel Curtis's holdings, the acceptance of "a new Parchment Plan" of the township, and the appointment of "Benjamin Wait, Israel Curtis Esq: & Col. Nathan [Stone] a Comitee to Except of what Roads hath been Layd [out and] to Lay out Roads for the Benefit of the town." The paper containing the record of this meeting is so mutilated that its contents are not wholly discoverable, but it shows besides the items mentioned above the peculiar practice of drawing for lots in the names of the original proprietors named in the New Hampshire Charter instead of in the names of those who had acquired proprietary rights by purchase from the original grantees. This practice was continued as long as any land remained to be allotted. Thus, Zedekiah Stone, being an original proprietor, drew lots in his own name. On the other hand, Steel Smith, not being an original proprietor, but having purchased the proprietary rights belonging to Jacob Cummings, Simeon Smeed, Joseph

Stevens, and Thomas Frink, would be entitled to draw lots, not in his own name but in the names of each of those four original grantees, until he sold the rights to others.

Another item of importance touched on at this meeting was a provision for a "public yard" comprising three acres, the location of which is not clearly described but which may well have been the area now comprising the Old South churchyard and church precincts. Since the meeting voted to return to Israel Curtis his bond for building the mills in the town, it may be inferred that he had performed his agreement to construct a grist-mill and a saw-mill on the Mill Brook. Military titles had by this time become so common in consequence of the organization of a militia regiment in Cumberland County that we find that "Lieut. David Stone, Sergt. Joab Hoisington, Ensiⁿ Benjamin Wait, Solomon Emmons and Ensiⁿ Steel Smith" were chosen a committee to lay out the town.

On December 17 of the same year the proprietors held a second meeting at Thomas Cooper's. "Insⁿ Benjⁿ Wait" was chosen moderator, "Capⁿ Sam^l Stone, Israel Curtis Esq^r and Serj^t Andrew Norton, assessors, Thomas Cooper, treasurer, and Col. Nathan Stone, collector." The committee which had been chosen at the preceding meeting was directed to lay out ten acres for a "public yard" at such place as they considered most advantageous and also, for each proprietary right, a tract of fifty acres as near as practicable to this public yard.¹ With some further instructions to the committee and having decided to "pass by" the question of reimbursing their agent (Colonel Nathan Stone) for his expenses at New York, the proprietors took up the subject of building a bridge "acrost the Mill Stream in Windsor." They voted to pay Joseph King twenty pounds in day's labor to build such bridge "between the dam of the Grist Mill and Saw Mill Standing on said Stream" provided that King would give bond in the sum of one hundred pounds "to build the said Bridge Good and well as followeth: Viz: fourteen feet wide and to be well Plankt so far as Shall be thought proper with Plank two inches and a half thick and Said bridge to be built by Said

¹ This yard probably included the West Parish (Sheddsville) cemetery and the meeting-house property nearby.

bond by the first Day of July in the year 1768 and to be Excepted by the Committee appointed for the purpose of Highways."

Although it would appear from subsequent proceedings that King never built the proposed bridge, the location selected by the proprietors indicated that a highway then in existence or presently contemplated ran approximately north and south through Windsor about on the lines of the present main street in Windsor village. Another highway (for there was then more than one) must have extended into the west part of the township and a third must have led to the Connecticut River which was the principal route for trade with the south. The reader, of course, should not form too large an opinion of these "highways." They had length, probably width, a bridle path in the center and, perhaps, a surface over which an ox team might be driven. For journeys of great distance the winter time, when the sleighing was good, was for many years the favored season at this period and for years after.

A meeting on July 18, 1768, over which Hezekiah Thomson presided, voted the acceptance of a plan of the fifty-acre lots, a tax of three dollars and a half on each right to defray the charges for highways and other necessary charges, and a tax of two dollars and a half for the necessary charges of surveying. Exclusive of the "Minister's right" and other public rights and the reservation for Benning Wentworth there thus were fifty-nine rights to contribute six dollars apiece or an aggregate fund of three hundred and fifty-four dollars for the expenses of the township. Those of the proprietors who lived in Windsor probably paid this tax chiefly by day's labor. Those who lived elsewhere paid in cash if at all. That there had been delinquency in the matter of paying previous taxes or charges voted by the proprietors is clear from the warning or warrant for the next meeting on October 3, 1768.

On the date last mentioned there was a meeting at which Joab Hoisington acted as Moderator. The taxes recently voted were then apportioned to house lots, meadow lots, fifty-acre house lots of the second division and undivided common. A further tax or charge was voted and Joab Hoisington,

Solomon Emmons, Benjamin Wait, and Steel Smith were chosen as a committee with the proprietor's clerk to sell lands "of the Delinquent Proprietors to defray the charges." The question of building a bridge across the Mill Brook having again been agitated was now left to a committee consisting of Joab Hoisington and Andrew Norton. Though the settlement was but four years old this meeting contains a reference to the "original highway" across house lot number fifty-three. This original highway was ordered given to Joab Hoisington in lieu of land to be taken for a new highway across the meadow lots numbers forty-one and forty-two. Where this original highway ran can only be conjectured. The various parchment plans referred to in the proprietors' records have long since disappeared and the oldest map in the possession of the town bears evidence that it was prepared, at least in part, subsequent to March, 1772. If the parcels of land on such map are numbered and located according to the previous parchment plans it would indicate that the change in highway above mentioned took place near the north end of the present main street in Windsor village and resulted in the abandonment of a road running parallel to the present main street and a little further to the west.

Windsor was now sharing the flow of emigration to the New Hampshire Grants from Connecticut and Massachusetts. The widow Isabel and Samuel Patrick, Samuel Seers, Caleb and John Benjamin, Elnathan Strong, Enoch Judd, Ezra Gilbert, Simeon Mills, David and Jacob Getchell, Andrew Blunt and Captain William Dean were among those who soon followed the first settlers and established abodes within the township limits. Of these recruits to the little community Captain William Dean was the most important and, after sensational experiences, became for a time the leading citizen. The natural increase through the birth of children began within a year of Steel Smith's settlement. The first birth in Windsor was that of Samuel, son of Steel and Lois Smith on July 2, 1765. The first girl born in Windsor was Polly (Mary), daughter of Colonel Nathan and Mary Stone, on April 26, 1767. The first death in Windsor was that of Elizabeth, wife of Captain William Dean, on December 22, 1766.

More than four years elapsed after Steel Smith's settlement in Windsor before there was a church or church society in the neighborhood. No place of business except the saw-mill and the grist-mill had been established, but these were of great importance not only to Windsor but to neighboring settlements. No schoolhouse had been built and, so far as the records show, there had been no organization of a town government other than the proprietors' meetings. The inhabitants were occupied in husbandry and lumbering. There was neither physician nor clergyman among the inhabitants nor, until the arrival of John Grout at the end of 1768 or the early spring of 1769, any lawyer. Consistently with the habits of the stock of which they came the Windsor settlers' first effort after providing the bare means of sustenance and their unsuccessful attempt to confirm their land titles by a New York charter was to secure the services of a minister of the Gospel. Too poor and few to consider supporting by themselves a clergyman, they hit on the plan of combining with the settlers just across the Connecticut River in Cornish, who were perhaps in somewhat less straitened circumstances, and joined with their New Hampshire neighbors in a call to the Reverend James Wellman.

The call, executed by eleven Windsor settlers, and still preserved among the papers of the Wellman family, reads as follows:

"Wee the Subscribers being Desiurous to Promote the Settlement of the Gospell in the Towns of Cornish and Windsor and in a particular Manner for the Incouragement of Settling the Rev'd Mr. James Wellman in the Town of Cornish, afore-said: wee say, being the Inhabitants of Windsor, on the Consideration of the preaching being one third of the Time in Windsor for the Terme of five years that wee will as soone as conveniency will admit Give our Respective Obligations to the Rev'd Mr. Wellman for the Severall Sums to be paid to the Rev'd Mr. Wellman yearly for the Said Terme of five years (to be paid in Grain, beef or porke or Labour at the Set prices as shall be Reasonably agreed uppon hereafter) as

Shall be Enex'd to our Names on this paper being understood
Lawfull money of New Hampshire.

"Windsor, July 21st 1768"

	pounds			
Israel Curtis	1	:	10	: 00
Hez'k Thomson	1	:	10	: 00
Joab Hoisington	1	:	10	: 00
Sam'l Seers	0	:	10	: 00
Caleb Benjamin	1	:	00	: 00
Elnathan Strong	0	:	18	: 00
Enoch Judd	1	:	00	: 00
Ebenezer Hoisington	1	:	00	: 00
Steel Smith	1	:	12	: 00
Thomas Cooper	1	:	00	: 00
Elisha Hawley	1	:	00	: 00

In this respectfully worded appeal, in which devotion, frugality, and caution are pathetically combined, it is to be noted that no member of the several Stone, Wait, or Dean families joined. Steel Smith offered a little more than anybody else. Seers and Strong were the smallest contributors.

Mr. Wellman's salary was to be forty pounds per annum so that the aggregate sum of the Windsor underwriting—twelve pounds ten shillings—was a fair proportion of contribution to the stipend of a clergyman who was to preach in Windsor but one third of the time and was to live in Cornish all the time. Windsor and Cornish each gave him a piece of land.

In the archives of the Old South Church of Windsor, is a bond of tenor similar to the foregoing call and signed by the same people excepting Hawley and Strong. In the spring of 1771 seventeen more Windsor settlers gave their undertaking to contribute annually toward Mr. Wellman's salary until September 29, 1773, viz.,

Samuel Patrick	5 shillings
Peter Leavens	6 shillings
Ebenezer Howard	4 shillings
William Smeed	12 shillings
John Smeed	6 shillings

Ebenezer Curtis	12 shillings
Benjamin Wait	10 shillings
William Smeed, Jr.	6 shillings
Andrew Blunt	6 shillings
Nathaniel Atkins	6 shillings
Jacob Hastings	10 shillings
Benjamin Bishop	4 shillings
Joseph Powers	6 shillings
Matthew Hammond	3 shillings
John Evans	3 shillings
Jonathan Burk	8 shillings
Jeremiah Bishop	6 shillings

Here again we notice the absence of the names of the Stones, the Deans, and Joseph Wait. The fact that Colonel Nathan Stone was a member of the Church of England may indicate that his relatives as well as his brother-in-law, Joseph Wait, were of that communion and did not feel called on to subscribe to the maintenance of a Congregationalist parson.

Mr. Wellman's little house, the red cottage with the gambrel roof, on the east side of the river road in Cornish about a mile south of Cornish Bridge, is still standing. It is one of the oldest landmarks built by human hands within sight of Windsor although probably not dating back to the beginning of Mr. Wellman's pastorate. It probably stood originally on the west side of the highway near the present railroad track.

Of the Reverend James Wellman himself, a man of attainments and education, the first person above the farmer, lumberman, or mechanic class to become a familiar figure in Windsor, a few words should be said. There is a pleasant notice of him in the Reverend Ezra Hoyt Byington's *History of the First Congregational Church of Windsor, Vermont*. To that valuable work we refer as one of the few meritorious researches into Windsor history.

The Reverend James Wellman was born at Lynn in the Province of Massachusetts Bay, May 10, 1723, was graduated at Harvard College in 1744, was ordained as minister in Sutton, Massachusetts, October 7, 1747, was dismissed July 11, 1768, and settled in Cornish September 29, 1768. He was "a man of good abilities," says Mr. Byington, "a fine scholar, . . . a

good preacher and a faithful pastor." His invitation to Cornish had been prompted by some of the Cornish settlers who had been his parishioners at Sutton. "It is said," observes Mr. Byington, "that his theological opinions were more liberal than those of some of his parishioners." The covenant of the new church of Cornish and Windsor, adopted at Windsor September 21, 1768, and at Cornish a week later, "recognized the doctrines which are now held by the orthodox Congregational churches." By a slight majority vote the church of Cornish and Windsor adopted what were then known as liberal views and required no "relation of religious experiences from persons desirous of uniting with the church" and permitted "parents who were not members of the church to present their children for baptism." But a large minority of the church members were strict Calvinists and their beliefs hastened the division of the church which came in the spring of 1774. It is also fairly to be inferred that the liberals of the church were not mainly to be found in Windsor.

Although little has been preserved to show what was the personal or human side of the Reverend James Wellman one cannot but feel that if in the long life of the Congregational church in Windsor there could have been more pastors of the liberal views of Mr. Wellman and Mr. Byington more happiness and less gloom would have been the lot of the inhabitants. For more than one hundred years the manifestations of narrow Calvinism survived in Windsor. There are now living many people of Windsor birth who, like Mrs. Judge Lyman, could "feel the cloud of Calvinism that enwrapped the whole valley of the Connecticut in spiritual gloom."¹ It was a part of the life of Windsor until comparatively recent years. Town histories usually omit to deal broadly with the religious atmosphere, yet such an omission leaves so much unwritten that one feels the inadequacy of town histories which in the matter of religion merely mention the erection of church edifices and give lists of the pastors. Though written of life in Northampton, Massachusetts, and at a period fifty years after the founding of Windsor, Mrs. Susan Lesley's description of the outward signs of Calvinism is illuminating. "In revival times,"

¹ *Recollections of My Mother*, by Susan I. Lesley, p. 173.

said she, "the evidences of conversion were discussed, much as the symptoms of a fever would be; and the deep things of God,—the soul's union with Christ, the 'obtaining a hope,' as it was called,—were bandied about without reserve and without joy. In infant schools, babies wept over their 'wicked hearts'; and the children in older schools were separated into 'sheep and goats,' and sat on 'anxious seats.' If they died early, the little prigs had their memoirs written, in which they explored the good old people, who had borne the burden and heat of the day in faith and patience, 'to come to Christ.'" ¹

This was the temper and quality of religious belief among the Congregationalists in Windsor. Strong in inherited hatred of the Church of England from which their ancestors had been dissenters, strong in their abhorrence of the Roman Catholic Church which they considered as holding Canada "priest-ridden" and in a condition of heathenism, ignorant of the Unitarian views which, when brought before them, affected them like heady wine and made friends or enemies accordingly, the good Congregationalists of Windsor saw but one permissible variation from their own beliefs and that was adult baptism by immersion. On this mere distinction in the form of a symbol and the time of administering it their strong and narrow minds could take sides intelligently and without rancor. But even this limited liberality was not always in evidence. The Reverend Aaron Hutchinson of Pomfret who preached to the delegates at the Constitutional Convention in Windsor in July, 1777, once quoted from the pulpit of the Congregational Church at Hanover an authority to the effect that "the same spirit which drove the herd of swine into the sea drove the Baptists into the water, and that they were hurried along by the devil until the rite was performed." ²

To the people of Windsor Mr. Wellman preached on one third of the Sundays from the autumn of 1768 to the spring of 1774. There was no bridge on which to cross the Connecticut and tradition has it that at seasons of comparatively low water when he forded the stream on horseback he sometimes entered the pulpit dripping wet. There must have been Sundays at

¹ *Id.*, pp. 173-174.

² *Life of Ariel Kendrick*, p. 15.

the season of the spring freshet when he could not cross at all on account of the current and the floating ice. In the dead of winter and in the summer and autumn his crossing was simple. The "pulpit" to which he came was any of the cabins, houses, or barns which was appointed to receive him, for the "town-house" or "meeting-house" was not built until the last year of his Windsor pastorate. His "diary," which was interleaved in his almanacs, mentions preaching at Joab Hoisington's oftener than anywhere else in Windsor.

Of course, Mr. Wellman had to farm to eke out a living. He kept and bred horses, cattle, sheep, and swine. He raised geese. He cultivated his Windsor meadow with rye. In the fall he sometimes pastured cattle there. One year he made two hundred and twenty-eight pounds of maple sugar. In the year 1772 he had finished planting corn by May 15. His boys, James, Isaac, and Solomon, worked for him and he had the somewhat irregular help of John Andrews, Jerusha Lynd, Betty Chase, and one Plaistrige. Israel Curtis presumed sufficiently on his friendship to borrow of him twenty-two shillings. Mr. Wellman occasionally accommodated others with small loans of money and seemed always ready to lend books from his library. To Joab Hoisington he lent his copy of Bates's *Harmony of Divine Attributes* and to Andrew Blunt a set of Flavel's Works. Items such as these, picked from Mr. Wellman's "diary," give hints of his life and of that of his Windsor neighbors. Unfortunately only fragments of the "diary" are preserved.

The year 1768, besides bringing the Gospel to Windsor, also brought to the attention of Eleazar Wheelock the upper part of the valley of the Connecticut as affording a possible new location for the Indian School he was conducting at Lebanon in the Colony of Connecticut. In that year Colonel Alexander Phelps wrote of the settlers of influence on both sides of the river whom it would be worth while to interview on the subject of a new location for the school. He mentioned particularly Colonel Josiah Willard at Winchester, Colonel Bellows at Walpole, Captain Stevens at Number Four, "Esquire" Chase and his brother at Cornish, Israel Morey at Orford, Colonel Bayley at Newbury, Major Oliver Willard at

Hartland, Judge Wells at Brattleboro and Colonel Nathan Stone at Windsor.¹ The letter is important as showing who were the men of consequence in the region at that early period.

¹ 1 Chase's *Hist. Dartmouth College*, pp. 102-103, note.

CHAPTER XIII

JOHN WENTWORTH VISITS WINDSOR

GOVERNOR BENNING WENTWORTH'S marriage to young Martha Hilton did not rejuvenate him. Old, gouty, becoming indolent as he aged, he did not continue to administer his office in vigorous fashion. He neglected particularly the enforcement of the law respecting timber depredations and in other respects he was criticised for failure or misconduct. Charges against him were lodged in England in or before the year 1765. Precisely what these charges were has never been published, but it is clear that his practices in granting townships on the west side of the Connecticut River in what is now Vermont had long been regarded in England as deserving of censure. For instance, in a representation by the Lords of Trade and Plantations, signed by Lord Hillsborough and others, and addressed to the Lords of the Privy Council under date of June 6, 1771, there is pointed allusion to the "extraordinary circumstances" and the "many irregularities and improprieties" attending Benning Wentworth's township grants.¹ In fact the Lords of Trade thought that these grants would, on examination, without doubt be found void.

Again, on December 3, 1772, in a further representation to the Privy Council, signed on behalf of the Lords of Trade and Plantations by the Earl of Dartmouth and others, it is pointed out how, after Governors Clinton and Wentworth had referred the boundary dispute to the Crown, "the Governor of New Hampshire had taken the opportunity *pendente lite* to grant away a very considerable number of Townships, of six miles square each, in this county to the Westward of Connecticut River." The representation then proceeds thus: "This proceeding accompanied as it was with other disreputable circumstances was fully stated in a representation made to His Majesty by this Board in 1764 . . ." ² Plainly,

¹ 4 *Doc. Hist.* 435.

² 4 *Doc. Hist.* 489.

Benning Wentworth's conduct had not been approved in England. Luckily for him, at the time the latest charges against him were preferred, there happened to be in England his nephew, John Wentworth, who, with the aid of their patron, Charles Watson-Wentworth, Marquess of Rockingham, succeeded in making it appear that the old governor had determined to resign in favor of John when the latter should be appointed and assume the duties of the office. John Wentworth's letter in defence of his uncle, under date of March 10, 1765, which may be found in volume 18 of the *New Hampshire State Papers* at pages 560 to 567, throws some light on the nature of the charges.

John Wentworth, who thus succeeded his uncle and became the last of the royal governors of New Hampshire, received his appointment in August, 1766, while still in England. He was born at Portsmouth, August 9, 1737, was graduated at Harvard in the class of 1755, was a classmate and friend of John Adams and had the good fortune of acquaintance among the best and the influential people both in the American colonies and in the mother country. He had also the advantage of travel abroad. As an executive, his industry and zeal and his devotion to the public interests made his administration a marked contrast to the last years of his uncle's. At the time of his appointment as governor he was also commissioned surveyor-general of the King's Woods in North America. On his return to the Colonies he landed first in South Carolina and there and in each colony or province on his journey to the northward he recorded his surveyor's commission. On June 13, 1767, he reached Portsmouth, where his personal popularity won for him a hearty greeting, and on that day took the reins of government from his uncle who had continued as governor until the hour of the nephew's arrival. His administration continued to the Revolution.

John Wentworth gave to Dartmouth College its charter and an endowment of forty-four thousand acres of land. He also gave a piece of land to each member of the first class to graduate. Always a Loyalist, he remained at his post until August 24, 1775, when he took refuge in Boston. In February, 1778, he sailed for England, shortly following which his entire



Courtesy of the State Department, New Hampshire

JOHN WENTWORTH

GOVERNOR OF THE PROVINCE OF NEW HAMPSHIRE

From a painting in the State-house, Concord, New Hampshire

estate in New Hampshire was confiscated. He received in 1792 the appointment of governor of Nova Scotia and continued as such until 1808. In 1795 he was created a baronet. On the occasion of the visit of the Duke of Kent, Queen Victoria's father, to Halifax in 1799, Governor Wentworth gave a dinner and ball of princely magnificence in the Duke's honor at the Government House. After retiring as governor, Sir John with Lady Wentworth visited England where they received marked attention. On their return to Nova Scotia in 1810 they were accorded a public welcome. Sir John Wentworth died in Halifax, April 8, 1820. His valuable letter-books, sadly neglected by historians, are in the library of the Provincial College at Halifax. A manuscript copy made in 1886, covering letters written between 1767 and 1775, was lodged in the office of the Secretary of State at Concord, New Hampshire.

As a sidelight on Sir John Wentworth's personal character the following extract from the diary of John Adams, giving an account of meeting Wentworth in Paris on May 6, 1778, is pleasant:

"Went to the Comedie Française and saw the *Brutus* of Voltaire and after it the *Cocher Supposé*. As I was coming out of the box, after the representation, a gentleman seized me by the hand. I looked at him. 'Governor Wentworth, sir,' said the gentleman. At first, I was somewhat embarrassed, and knew not how to behave towards him. As my classmate, and friend at college, and ever since, I could have pressed him to my bosom with most cordial affection. But we now belonged to two different nations at war with each other, and, consequently we were enemies. Both the governor and the minister were probably watched by the spies of the police, and our interview would be known the next morning at Versailles. The governor, however, relieved me from my reverie by asking me questions concerning his father and friends in America, which I answered according to my knowledge. He then enquired after the health of Dr. Franklin, and said he must come out to Passy, and pay his compliments to him. He should not dare to see the Marquis of Rockingham, after his return, without making a visit to Dr. Franklin. Accordingly, in a day or two,

he came and made me a morning visit. Dr. Franklin and I received him together; but there was no conversation but upon trifles. The governor's motive for this trip to Paris, and visit to Passy, I never knew. If they bore any resemblance to those of Mr. Hartley, his deportment and language were very different. Not an indelicate expression to us, or our country, or our ally, escaped him. His whole behavior was that of an accomplished gentleman."¹

Governor John Wentworth married November 11, 1769, Frances Deering Atkinson. She was at that time the widow of Theodore Atkinson, junior, whose father's signature appeared upon the New Hampshire charter of Windsor. She was born Frances Deering Wentworth and was related by blood to both of her husbands. John Wentworth and she had been attached to each other before her first marriage. She was beautiful, accomplished, and gay. Her portrait, by John Singleton Copley, is rated as a notable and interesting example of his work. She was conspicuous and admired at court while she and Governor Wentworth were in England. Queen Charlotte appointed her a lady in waiting. In the early days of the Revolution there must have been some gossip of a separation since on February 7, 1776, we find that Rufus King, then a student at Harvard College, wrote this suggestive bit of news to Doctor Southgate: "Governor Wentworth's lady has left him & exhibits as an actress upon the Theater in Boston. . . ." ² Yet whatever then occurred in the early excitement of the Revolution they were presently reunited. Francestown, Deering, and Wentworth in New Hampshire are said to have been named in honor of Lady Wentworth.

If explanation be needed for the foregoing somewhat extended notice of Sir John Wentworth the writer offers the suggestion that he expects shortly to show that Sir John Wentworth had a surprisingly great though hitherto unrecognized part in shaping the history of Vermont in general and Windsor in particular. Besides, he was an attractive figure and it is not unpleasant to play up those persons of engaging qualities

¹ 3 *Life & Works of John Adams*, p. 150.

² 1 *Life & Correspondence of Rufus King*, p. 20.



FRANCES DEERING WENTWORTH
WIFE OF GOVERNOR JOHN WENTWORTH

From a painting by John Singleton Copley, in the New York Public Library

who have to do with the main topic in hand. The writer trusts that what ensues will justify the digression.

An early exercise of Governor John Wentworth's authority as surveyor-general of the King's Woods in North America was the appointment of Joshua Loring, junior, as deputy surveyor. Loring must have been the son of that Captain Joshua Loring who had petitioned Governor Sir Henry Moore for a grant of land along the eastern boundary of Reading adjoining those lands in Windsor that were supposed to have been selected for the Earl of Ilchester, Lord Holland, and their associates; and it is a somewhat curious coincidence to discover that on one of the trips of inspection taken by Joshua Loring, junior, into the woods of North America he visited the Connecticut River valley and evidently found cases of timber depredation near the very locality that had appealed to his father three years earlier. At any rate, he reported to Governor Wentworth that the law against felling white pines was being violated along the Connecticut River and subsequently we find Governor Wentworth on his way through the wilderness to Windsor to investigate.

In a letter written by John Wentworth from Portsmouth to his kinsman Nathaniel Rogers at Boston under date of January 13, 1769, he says: "On Sunday or Monday next I sett out on a Journey about 180 miles hence, to the interior Country on Connecticut River where my Duty calls me on Naval Services and expect to extend my progress thence about 80 miles into N. York Government." Obviously the "Naval Services" were in connection with a report or reports of the unlawful felling of white pines that had been reserved for masting the royal navy. His letters show that he was back in Portsmouth some days prior to January 30. Writing six months later to Lord Hillsborough he referred to this trip as covering three hundred miles and continuing for sixteen days. Since the distance from Portsmouth to Windsor was then rated at about one hundred and fifty miles it would seem that the governor abandoned the plan of travelling "about 80 miles into N. York Government" and went merely as far as Windsor.¹

¹ John Wentworth's manuscripts.

Mr. B. H. Hall, who is the first historian to have remarked on this trip of Governor John Wentworth, states that at this time there were growing in Windsor and in Cornish the finest forests of white pine trees to be found on the borders of the Connecticut River.¹ Wentworth himself after visiting Windsor put the facts even more strongly by informing the Earl of Hillsborough, the Lords of Admiralty, and the Commissioners of the Navy that the region "abounds with great quantities of the finest white pine timber on this continent!" That the naval authorities might not fail to be impressed with the importance of his discovery, he adds that in the district west of the Connecticut River "there are now more good white pine masts of an extraordinary length, diameter, and soundness than upon this whole continent besides & more convenient to be procured for the King's contracts." Cornish, prior to its settlement, was sometimes called the Mast Camp and doubtless shared to some extent with Windsor the local fame for the magnificence of the pine forests. It is worth relating here, by way of corroborating this expert testimony of John Wentworth based on his inspection of the Windsor forests in 1769, that as late as the year 1919 an experienced judge² of white pine timber, viewing the beautiful tall pines in the forest or park called "Paradise" on the estate of the late William M. Evarts in Windsor, pronounced them the finest specimens he had ever seen.³

While we have Governor Wentworth's mere statement that his trip to Windsor was on "Naval Services," Mr. B. H. Hall, in his *History of Eastern Vermont*, ascribes to the governor intense personal feeling against one or more of the Windsor settlers, but especially against Captain William Dean. Says Mr. Hall: "But the spirit of malice which had actuated the uncle in his conduct towards those settlers on the 'Grants' who acknowledged the jurisdiction of New York, was not wanting in the nephew." Mr. Hall, who unearthed some very valuable facts in regard to the governor's errand, but who missed its real significance and its bearing on future history,

¹ *History of Eastern Vermont*, p. 146.

² The writer's friend, the late Charles Downer of Sharon, Vt.

³ Alas! many of these noble trees have since been felled.

asserts that Captain William Dean, together with his sons Willard Dean and William Dean, junior, of Windsor, had refused to join with their neighbors "in denying the authority of New York." What evidence Mr. Hall had that in the fall and winter of 1768 or in the month of January, 1769, the people of Windsor were denying the authority of New York does not appear. He states, however, very positively the conditions under which those Windsor settlers who adhered to New Hampshire could obtain licenses for cutting pines. Rather than to paraphrase Mr. Hall's readable version of the story it is better to quote:

"The owners of the land whereon these forests grew, being for the most part friendly to the jurisdiction of New Hampshire and opposed to that of New York, found it easy to obtain from the Surveyor General or his deputies, certificates permitting them to fell certain trees 'unfit for his Majesty's service,' and to appropriate them to their own use. Thus they were busy, day after day, in cutting and putting into the river, timber which was afterwards floated to the most convenient markets. . . .

"Wishing to procure some pine timber, not reserved by law, and observing with what ease certificates were obtained, Captain Dean applied to Daniel Jones, a justice of the peace, residing at Hinsdale, New Hampshire, Benjamin Whiting of Newbury, and others of the Surveyor-General's deputies, to survey some trees for him and give him a permit to cut such as they might deem unfit for his Majesty's service. These applications were in all cases accompanied by the customary offering of fourteen shillings, proclamation money, per diem.

"After vain solicitations on the part of Capt. Dean, at various times during four months, for a written permission, Whiting gave him verbal leave to cut such white pines as were unfit for the King's use. Dissatisfied with this license, Capt. Dean repaired to Governor Wentworth, the Surveyor-General, informed him of the efforts he had made to procure a proper certificate from the deputy surveyors, and of the ill success he had met with, and desired that a special deputy might be appointed to make the necessary examination and grant his lawful request. Whiting, who was present on this occasion,

promised Capt. Dean in the presence of the Governor, that he would survey the timber for which he had applied, and give him a certificate within a fortnight from that time, specifying the trees which he might deem unfit for the King's use. On returning home, Capt. Dean found that his sons, in consequence of the verbal license obtained from Whiting, had felled seventeen trees, much inferior in size to many which had been cut by his neighbors, and to all appearance unsuited for naval purposes. Information of this circumstance having been carried to Governor Wentworth, he immediately set out for Windsor, for the purpose of punishing the Deans. On his way thither 'he rode through a pine forest in Cornish and dined in the midst thereof at the house of Samuel Chase, Esq., and must thereby have had a view of the notorious destruction of the same, as the pines, felled, lay on the ground on each side of the road, and around for many acres.'¹ Still these sights did not withdraw his attention from the end which he had proposed. The friendship of the Deans towards the government of New York was to him a graver offence than that suggested by the evidences of destruction which surrounded him, and the opportunity of satisfying a grudge by the use of apparently legal means, was too good to be postponed to causes which should have demanded his most serious attention."²

We shall later show that Mr. Hall's story not only differs in some particulars from what Captain Dean claimed to be the facts, but is contradicted on important points by other testimony. Now whatever authority Mr. Hall found for stating that Governor Wentworth was actuated by spite and had been cherishing a grudge, the instance would appear from Sir John Wentworth's character in history to be exceptional. The magnanimity of his bearing towards Benjamin Franklin and John Adams after the confiscation of all his American possessions by the Revolutionary authorities does not seem to be of a piece with the picture Mr. Hall draws of him. If personal feeling were needed, it might possibly have been supplied through the circumstance that Captain Dean had acquired a part of his Windsor lands through a conditional purchase of

¹ Here Mr. Hall has been quoting, but from what authority does not appear.

² B. H. Hall's *History of Eastern Vermont*, pp. 146-147.

the charter rights of Mr. Mark Hunking Wentworth, one of the original Windsor proprietors and the father of Governor John Wentworth, and that Mr. Mark Wentworth had claimed that Captain Dean had incurred a forfeiture of the land through a breach of the conditions of the deed.¹ These facts, however, seem not to have been known by Mr. Hall.

Of course, before making the journey to Windsor Governor Wentworth knew of the boundary line adjudication in 1764; he knew of Samuel Robinson's mission to England in 1767; he had, indeed, received on October 18, 1768, a memorial from Mr. John Wendell, of Portsmouth, seeking to enlist the help of the New Hampshire Provincial Council in behalf of settlers under the New Hampshire charters west of the Connecticut who were represented as wishing to be placed under the jurisdiction of New Hampshire; but so far as contemporary records have come to the writer's knowledge, there is none showing that prior to the Windsor visit had Governor John Wentworth conceived a hope or intention of adding the Vermont country to his own Province or taking sides on the subject. Still, Mr. Wendell had brought the matter to his attention and had shown him an extract from a letter written by Samuel Robinson's adviser, William Samuel Johnson, in which it was intimated that if the settlers on the New Hampshire Grants would exhibit more activity and contribute more money to their case they would very likely succeed. Robinson, who had died in London October 27, 1767, had presented to the officers of the Crown a petition asking alternative relief, viz., the issuance of confirmation charters from New York on reasonable terms, or the establishment of the jurisdiction of New Hampshire over the region of the Grants. It was the latter alternative that Mr. Wendell now desired for his principals or clients.

It was on the 20th or 21st day of January, 1769, that Governor Wentworth crossed the Connecticut River and proceeded to the "Lower Meadows,"² where the sons and employees of Captain William Dean had been felling pines and drawing

¹ 1 *Cumberland County Deeds*, pp. 166-167.

² The "Lower Meadows" are the meadows along the Connecticut River in Windsor township south of "Cummings's Rocks" (about a mile south of the Mill Brook) as distinguished from the "Upper Meadows" north of "Cummings's Rocks."

them to the river. On the testimony of Israel Curtis, Benjamin Wait, and Joseph King that seventeen white-pine mast trees, from twenty-eight to forty inches in diameter and from eighty to one hundred feet in length had been felled on Captain Dean's land, and on the evidence of the measurement of three such trees, varying from twenty-eight to forty-four inches in diameter and eighty to one hundred feet in length, the governor felt that he could make a case. The three latter logs he seized, the remainder being lodged under the ice in the river.

Besides thoroughly scaring the Deans by his visit and by threat of prosecution, he evidently made the acquaintance of Nathan Stone, who was still the active political leader of Windsor and with whom he established then or shortly thereafter a political alliance which became the talk of the settlements up and down the Connecticut valley as well as of the government offices of the Province of New York. Governor John Wentworth's visit to Windsor may be chronicled as the first of a long line of visits made to Windsor by men of eminence who, because of the political importance of the town, the beauty of its village and the surrounding country, or because of the distinction of some of the inhabitants, have from the earliest days been attracted to this little corner of the world.

The reader who has thus far borne with this narration and has forgiven and forgotten the length of space devoted to the biography of Sir John Wentworth, may be at a loss to know why the writer has dwelt in such detail on the visit of Governor Wentworth to Windsor. Such a reader is entitled to an answer. The importance of Governor Wentworth's visit lay in its three main results, namely, first, the organization of a town government in Windsor; second, the institution of the famous actions of ejectment brought by New York grantees in the supreme court at Albany against settlers under the New Hampshire charters; third, the formation of those bands of insurgents, rioters, or outlaws known in history as the Green Mountain Boys. The writer will now proceed to show how, step by step, history hinged on John Wentworth's visit to Windsor in January, 1769.

CHAPTER XIV

ORGANIZING A TOWN GOVERNMENT

CAPTAIN WILLIAM DEAN was a modest specimen of that great American type, the American adventurer, the type that stands for industry always, for profiteering whenever opportunity offers, for advancing by work rather than by words—in short the type of the genuine American progressive, the type that has made the last century and a half of American history.

Captain Dean had come from Plainfield in the Colony of Connecticut to the new Windsor on the New Hampshire Grants in the year 1766, to engage in lumbering and husbandry and to make money. Of his education we know little. Probably it was slight. It is safe to say that he had not been taught to value "vision" above foresight or to consider either more reliable than "hindsight," and that he thought he could labor efficiently without even knowing the word "functioning." These were among his scanty advantages that were characteristic of the times in which he lived. "Social justice," the "yearnings and aspirations of mankind," "uplift," the passion to pose as a hero of humanity concerned him not.

With Captain Dean there came to Windsor his sons Willard and William Dean junior. They worked with their father, shared his misfortunes and stood by him politically. There were also in Windsor Phineas Dean and Reuben Dean—the former a considerable landowner, the latter a silversmith who made the first seal for the State of Vermont—but whether they were kinsmen of the captain the writer has not ascertained. Later there came to Windsor Grandfather William Dean, who was the father of the captain. Though the Deans owned land in various parts of Windsor, their settlement seems to have been in the southeasterly part of the township near the river. William Dean junior (William Dean y^e third) before the Revolution moved across the town line into Weathersfield.

Unquestionably Captain William Dean had business rela-

tions on a considerable scale with lumber dealers in Springfield, Massachusetts, and in other towns in the lower part of the Connecticut Valley, where frame buildings were being constructed. To supply these dealers he was engaged in felling timber and floating it down the river. That he or his sons, or both, had consciously or unconsciously violated the timber law is plain, and it is scarcely credible that they could have been wholly ignorant of the stringent statutes for the preservation of white pines fit for masting the royal navy. These statutes had been in force for many years. As early as 1700 the Earl of Bellomont, when governor of the Province of New York, had reported to England the wanton destruction of timber in the American Colonies—particularly in New Hampshire—and had recommended the passage of an Act in Parliament for its preservation.¹

The first statute on the subject, which was passed in 1710 in the ninth year of the reign of Queen Anne, and which may be found in the ninth volume of *Statutes of the Realm* at page 480, prohibited generally the cutting of pines of twenty-four or more inches in diameter, without Her Majesty's license, under penalty of one hundred pounds fine for every offence. One-half the penalty recovered went to the informer and one-half to the Crown. By this statute a prosecution might be brought before a justice of the peace. This law was amended in 1721 in the eighth year of the reign of George I, so as to protect only white-pine trees "not growing within any township," and provided the following scale of penalties:

"for trees of 12 inches diameter at 3 feet from earth £5,
for trees of 12 to 18 inches £10,
for trees of 19 to 24 inches £20 and
for trees of 24 or more inches £50."

The statute of 1721 also transferred jurisdiction of prosecutions to "the judge of the admiralty or his deputy within the colony or plantation where such pine tree shall be cut, felled, or destroyed," and provided for the collection of the fine by levy on the "goods" of the offender. If sufficient goods of the offender could not be seized to satisfy the judgment, he

¹ 4 *Lond. Doc.* 675.

could be imprisoned, without bail, for from three to twelve months, or until the penalty should be paid. After payment, the offender must give security for good behavior for three years. By an amendment enacted in 1729, in the second year of the reign of George II, the preceding statute was extended to trees within township limits.

Under these statutes it will be perceived that if the Deans were guilty they had incurred the risk of fine and imprisonment, and that the fine might be collected out of the personal property—but not the land—that they happened to own. But this, according to their own belief, did not cover the full limit of their liability. The title to all of Captain Dean's land in Windsor depended on the Benning Wentworth charter of Windsor. By that charter was imposed on each grantee the express condition "That all white and other Pine Trees within the said Township, fit for Masting Our Royal Navy, be carefully preserved for that Use, and none to be cut or felled without Our special License for so doing, . . . upon the Penalty of the Forfeiture of the Right of such Grantee, his Heirs and Assigns, . . . as well as being subject to the Penalty of any Act or Acts of Parliament that now are, or hereafter shall be enacted." Thus, Captain Dean, in addition to being fined and imprisoned, might lose his land as well.

In view of the serious situation confronting Captain Dean, it is not surprising to find that he consulted the only lawyer within reach, Mr. John Grout. Grout was a very recent arrival in Windsor, if in fact he had then taken up a residence within the township. He was a native of Lunenburg in Massachusetts, was a brother of Hilkiah Grout, at whose tavern in Winchester, New Hampshire, the Windsor proprietors had held their first meeting, and, in the month of January, 1769, was thirty-seven years old, with "a peculiar natural talent for doing business at law and in courts."¹ Whatever his abilities as a lawyer, John Grout's character as a man was not attractive. In an official report to England, Governor John Wentworth described Grout as "a petty foggin lawyer . . . of deservedly infamous character."² His personal traits

¹ B. H. Hall's *History of Eastern Vermont*, p. 650.

² J. Wentworth to Lords Commissioners, Oct. 22, 1770.

alone might not have made him objectionable to the Windsor settlers, but he belonged to what was even then regarded in the Vermont country as an odious profession, and he found no welcome in Windsor. Lawyers meant business for courts, with consequent burdens for jurymen and expenses for all concerned. Lawyers meant that those who found it inconvenient to pay their debts might be forced to part with their possessions, or that those who had squatted on land might be ejected by some obnoxious person who happened to have a title. Lawyers were regarded as primarily the agents of the creditor class, the attorneys for plaintiffs. It was something rather unusual that Captain Dean attempted to use this hated profession as an aid to defendants.

The place of the lawyer in public estimation in the Province of New York at this period was defined by Doctor Cadwallader Colden in a valuable letter describing the four classes of settlers. First were the great landed proprietors, of which the towns on the Grants had none; next came the gentlemen of the law; third the merchants, and fourth the farmers and mechanics. Of the gentlemen of the law Colden remarks that they include both the bench and the bar and are of the most distinguished rank in the "policy of the Province." He insisted that they had formed an association with the intention of assuming the direction of government through their influence in the Assembly, and that they had gained that influence by their family connections and "by the professions of the Law whereby they are unavoidably in the secrets of many familys." "Many court their friendship," continues Colden, "and all dread their hatred. By this means, tho' few of them be members, they rule the House of Assembly in all matters of importance. The greatest numbers of the assembly, being common Farmers who know little of men or things, are easily deluded and seduced." Though written in 1765, Colden's views are sometimes still expressed in Vermont. "A state run by lawyers" has a not unfamiliar ring. And then, is there not still something of truth in the line: "Many court their friendship and all dread their hatred"? Does it not wake a twentieth-century Windsor echo?

Of the farmer and mechanic class, of which the settlers on

the New Hampshire Grants were composed, Colden said it "comprehends the bulk of the people and in them consists the strength of the Province. They are the most useful and the most moral, but alwise the Dupes of the former [*i. e.*, the people of higher rank] and often are ignorantly made their tools for the worst purposes."¹

So Captain William Dean sought the counsel of one of these suspected and distrusted "Gentlemen of the Law." What advice he got may be guessed from Captain Dean's subsequent actions. He conveyed—if Governor Wentworth was correctly informed—all his land to this same John Grout and fled to parts unknown.² It was not noble conduct on the part of Captain Dean, but the captain made no pretensions of being noble. He was a plain, old-fashioned sort, and his lawyer was not a man of character.

The people of Windsor looked on and thought they saw the ends of justice defeated by a trick. They had the distrust of their class for the lawyer. They had also just made the acquaintance of Governor John Wentworth, a young man of charming personality and of the ability and power to be of possible service to them. The lawyer's trick would baffle this new-found friend. Governor Wentworth had made to them one suggestion in particular that they now saw could be put to a present practical use by supplying them with a chance at reprisal. He had advised them "to regulate themselves according to their grants from New Hampshire,"³ which they interpreted as meaning that they should organize a town government in accordance with New Hampshire law and usage, and without regard to the usage of New York or the town officers which New York statutes prescribed.

It was at the time of Governor John Wentworth's visit to Windsor or directly afterwards that he became warmly interested in securing the extension of New Hampshire's jurisdiction over the region west of the Connecticut River, for in a personal letter to his friend, Colonel William Bayard, under date of February 23, 1769, he expressed the opinion that that region "will very shortly be re-annexed to New Hampshire." In that letter he gave a brief history of the New Hampshire

¹ 7 *Lond. Doc.* 795.

² J. Wentworth's letters.

³ 4 *Doc. Hist.* 424.

Grants, commenting with severity on the assertion and authorization of New York's jurisdiction "upon false, absurd, and iniquitous misinformation," and on the action of the New York Provincial Government in re-granting many of the tracts. Some of these re-grants he described as having been made "under such circumstances as might well claim the honest tear of compassion if not the more coercive observations of policy and equity." Somewhat suddenly Governor John Wentworth had become a full-fledged partisan on behalf of the New Hampshire grantees; but he was not a champion of actual settlers merely. He felt that the land speculators of New Hampshire were also entitled to protection. "There are many gentlemen of respect and property here" at Portsmouth, he wrote, who "think themselves aggrieved, and seem determined to petition not only to His Majesty but also to Parliament in support of their possessions, which they resolve not to give up tamely." He confided to Colonel Bayard that these gentlemen have employed an agent "who sailed hence in Nov^r last a gentⁿ of England, of excellent abilities and such connections as will lead him to justice and cannot be well refused." The governor added that he himself had not written a word on the matter and that the New Hampshire Provincial Assembly did not choose to enquire into the subject.

Although Governor John Wentworth up to that time may not have written one official word on the subject of the jurisdiction of the New Hampshire Grants, there soon sprang up a distinct belief in the minds of the New York provincial officers that he had been busy in heartening the settlers to attempt to secure a change in the jurisdiction from New York to New Hampshire. Fifteen pages of the *Documentary History of New York* are devoted to the title "Public Disorders Fomented by New Hampshire" and by Governor John Wentworth in particular.¹ Although the papers comprised in that title are *ex parte* and probably somewhat overdrawn, they indicate very clearly that John Wentworth led the settlers to believe that the New Hampshire Grants could be annexed to New Hampshire, that petitions for such a change of jurisdiction ought to be circulated and signed, and that township

¹ 4 *Doc. Hist.* 416-431.

governments, if organized pursuant to the laws and customs of New Hampshire, would further the movement. That he recommended violence or rioting is not to be suspected and is not asserted. But the governor was playing with fire; and so when, at his suggestion, Colonel Nathan Stone, of Windsor, undertook to circulate one of these petitions through the towns on the west bank of the Connecticut and had organized in Windsor a town government without regard to the laws of New York, but according to New Hampshire practice, it is not surprising to find Colonel Stone soon declaring that he would resist the law officers of New York and oppose their authority "while he had a drop of blood in his veins."¹

It was the organization of a Windsor town government on New Hampshire lines that definitely placed Windsor in the attitude of rebellion against the authority of the Province of which the town was then indisputably a part. This occurred on the second Tuesday of March, 1769, within two months after Governor John Wentworth's visit. How the organization meeting was called does not appear. Since illegality marked every step, it is likely enough that no warrant for the meeting was signed, and that no notice or warning was posted. Perhaps by whispered pre-arrangement, carefully concealed from any who were suspected of not being in sympathy with the project, the Windsor settlers appeared at the house of Thomas Cooper, the proprietors' clerk, and proceeded to organize. The record of this meeting, endorsed "Proceedings of the first Town meeting held in Windsor on the second Tuesday of March, 1769" and also labeled "Prosceding y^e 1," seems to answer the century-old question as to when the town was organized. Thompson's *Vermont Gazetteer*, Thompson's *Vermont*, and later histories have merely stated that "the town was rapidly settled, and was soon organized, though the records do not show the time when." The reason for this uncertainty on the part of historians was that no book for the records of the town meetings was procured until about 1790, and that Briant Brown, who at that date was the town clerk, either could not find or did not have time to enter the records for the period prior to his term of office. The record of the

¹ 4 *Doc. Hist.* 394.

meeting of 1769 and other old records were discovered in the summer of 1916 under circumstances which will be stated hereafter. The record of the first Windsor Town Meeting reads as follows:

Att a Legall Meeting of the freeholders and inhabitants of the Town of Windsor in the County of Cumberland in the Government of N. York held att the House of M^r Thomas Cooper in S^d Town on the Second Tuesday of March 1769

The freeholders Voted & chose David Stone	Town Clerk
also chose	
Zedekiah Stone	{ Select men or oversears of the Poor
Joseph Wait	
Caleb Benj ⁿ	
also voted and Chose Joseph King	{ Cunstables
and Ezra Gilbert	
also chose	{ Tything men
Hezekiah Tomson	
and Thomas Cooper	{ High way Survey ers { N. End W. Side Middel S. End
also Chose	
Caleb Benjamin	
and Benj ⁿ Wait	
and Joab Hoisington	
and Sam ^l Stone	
also Chose	{ Andrew Norton Deer reff
also Chose	
John Benjamin	{ fence viewers
and Solomon Emmons	
also Chose	
Simeon Mill	{ Hog Cunstables
and Israel Curtice	
and Sam ^l Stone	
also Chose	Ebenezer Hoisington Pound ceeper
also Voted to Buld A Pound the Ensuing year	
also Voted that Every man inhabitant in S ^d Town Shall Give one Days work each for the Bulding A pound and the clering the Burying yard.	
also Voted to Desmis this Meeting	Benjamin Wait) Moderator
first Warrant.	

Written in a very ornate hand on the back of the paper containing the record of this first Windsor town meeting there appears what seems to be this mysterious inscription:

"Send
To his Excellency
Sir Jeffry Amherst."

It will be perceived that this town organization took place on the day of the year which was then and still is observed in New Hampshire as the day of the annual town meetings. It will also be observed that the officers chosen correspond to those customarily chosen at that period at New England town meetings. Had the organization been effected in accordance with the laws and practices of the Province of New York, of which Windsor was then a part, the town offices to be filled would have been different. For example, instead of selectmen there would have been a supervisor, trustees, and commissioners. It may be noticed that the Stones and the Waits seem to have controlled the situation. Thomas Cooper, who was the clerk of the proprietors and who was far more competent to be town clerk than David Stone, had married Peace Dean and paid the penalty of this alliance by being relegated to the innocuous post of tythingman. The Deans, although the captain had been bold enough soon to return to Windsor and retake possession of his land, were of course ignored in the division of offices. Colonel Nathan Stone and Steel Smith were not among those elected to office but both were active members of the new New Hampshire party. The former was moderator of the proprietors' meeting of 1769: the latter of the proprietors' meeting of 1770. The record of this town meeting of 1769 seems wholly to dispose of the common assertion that Thomas Cooper was Windsor's first town clerk.

Utterly unlawful as the Windsor meeting was and lacking in authority as were the elected officers, the townsmen put their organization to its intended work in short order. We are indebted to Mr. B. H. Hall for the story of their activities at this stage. At page 651 of his *History of Eastern Vermont* he gives the following history of the first attack on John Grout by the people of Windsor.

Zedekiah Stone and Joseph Wait, two of the three newly chosen selectmen and overseers of the poor of Windsor, filed with Colonel Nathan Stone as a justice of the peace (albeit under commission from Governor Sir Henry Moore of the Province of New York), a notice that they had received a complaint from the principal inhabitants of the town setting forth that John Grout and his wife and family of five or six children

who had lately come to Windsor were "likely to become chargeable to the town." This was the familiar proceeding launched in all New England towns against new comers who did not appear to be in easy circumstances, and required the respondents either to leave town or to give sufficient security that they would not become public charges. The two overseers of the poor therefore asked a warrant for Grout's removal or, in the alternative, a satisfactory bond. Colonel Nathan Stone of course granted the desired warrant which was placed in the hands of Joseph King and Ezra Gilbert as constables to execute. After some brief delay which was allowed on Grout's request¹ and possibly to attempt the hopeless task of obtaining security that would satisfy the Windsor people Grout was removed from town and took up his residence in Chester. It was a striking case of the irony of fate that a lawyer should, in a proceeding under color of law but without the exercise of lawful authority, be railroaded out of Windsor township.

¹ Among the Phelps Papers in the Brattleboro Public Library is what purports to be the memorandum of Grout's promise to the constables that he would be ready to leave town in a few days. It reads as follows:

"Windsor, April 22^d, 1769.

"Mr. Benja. Wait and Mr. Ezra Gilbert Informing me they have a Warrant to Carry me out of this Town with my Family, and as it is to my Interest greatly to Tarry till next Tuesday—on my Desire they have agreed not to do it untill next Tuesday, when I hereby promise that all my Family shall be Ready at my Dwelling house in Windsor to be carried out of Town if they shall then think proper to do it at nine of the Clock in the Forenoon. And as this is a Favour of my Asking, I as a Lawyer Say that Messrs. King and Gilbert ought to grant it in Tenderness to me and that no Disadvantage to them or the Town of Windsor Can ensue by means thereof, this I declare on my Honor and as a Lawyer.

"John Grout"

"This proposal made to
Messrs. King and Gilbert
in presence of
her
Lucy X Dean
mark"

CHAPTER XV

THE DEAN BOYS ARE ARRESTED

IN the belief that the Honorable Jared Ingersoll, of New Haven, as Judge of the Admiralty had jurisdiction of violations of the timber law at Windsor, Governor John Wentworth as surveyor-general of the King's Woods wrote to him a letter on February 3, 1769, complaining of Captain Dean, Willard Dean, and William Dean, junior. He reported that seventeen trees had been unlawfully felled by the Deans between November 20, 1768 and January 1, 1769, gave the measurements of the trees, stated that he had made a journey to Windsor "in this extreme rigorous season and examined into the facts on the spot" and desired process issued against the three offenders.

After a long delay, Judge Ingersoll wrote that not he but Judge Richard Morris¹ of New York had jurisdiction of the case and he reported having forwarded to Judge Morris the governor's letter. To the latter the governor wrote on May 5, 1769, requesting instruction as to the proper form for making a complaint. It seems, however, that Judge Morris had been very forehanded and had already employed the attorney-general of the Province of New York, John Tabor Kempe, to file the necessary papers for starting the prosecution. Then followed a correspondence between the governor and John

¹ Judge Morris was the father of General Lewis R. Morris, a distinguished Vermonter who settled in Springfield. The latter for several years was engaged in dealing in Windsor lands in partnership with Elijah Paine, of Windsor and Williamstown. Under the Vermont Act of October 27, 1784, lands of Judge Richard Morris in Springfield were seized, together with lands of Stephen Ward in Windsor, by Briant Brown and Benjamin Wait, both of Windsor, as commissioners to make reprisals (*Vt. Journal*, Nov. 10, 1784). In presenting to his son, Lewis R. Morris, a chest which had been captured from the Hessians at the Battle of Trenton, Judge Morris offered the suggestion that his son might find it of use "to secure your valuables from that dishonest and reckless population of the Green Mountains who hold out against the true and just claims of New York" (*Proc. Vt. Hist. Soc.*, 1911-1912, p. 59).

Tabor Kempe who appeared as advocate-general, proctor in admiralty and advocate for Governor Wentworth. In the governor's letter addressed to Kempe under date of June 24, 1769, and written in ignorance of the fact that Captain Dean had thought it safe to accept a re-conveyance of his Windsor lands from Grout, it was suggested that, as Captain Dean had transferred all his property and had fled, it might not be worth the expense to send a marshal all the way from New York to Windsor, but that since some notice ought to be taken of the offence it would be well to depute Benjamin Whiting, of Newbury, with authority to attempt the service of papers.

So important did the governor consider the case that he reported it on July 10, 1769, to Lord Hillsborough, the lords of admiralty and the commissioners of the Navy in England and did not fail to say that he himself had made a journey to Windsor "in sixteen days, having travelled 300 miles in excessive cold and snow thro' a wilderness almost uninhabited." To these officials he also reported that the offenders had disposed of their estates and absconded. On July 21, 1769, he wrote a further letter of instructions to Kempe containing this highly suggestive advice: "It is the elder of the Deans that has aliened his estate and absconded, but you'll please not withstand to pursue the prosecution *to try at least the validity of his conveyances.*" What the governor had in mind by this was clear enough to a lawyer of Kempe's understanding and was the governor's first hint of a purpose, soon to be unmistakably declared, of seeking the forfeiture of Captain Dean's land by virtue of the terms of the Benning Wentworth charter of Windsor.

To Kempe, who with James Duane and Walter Rutherford of New York, had been granted twenty-six thousand acres of lands in Vermont by Lieutenant-Governor Colden in 1765 and whose title depended on the total invalidity of the prior Benning Wentworth town charters, this hint must have been illuminating as well as startling. Perhaps he regretted having started the prosecution so precipitately. If the Benning Wentworth charter of Windsor was valid enough to support forfeiture proceedings for its violation it was valid enough to support a title to real estate. If this charter founded a valid

title to real estate then the Wentworth charters for Arlington, Sunderland, and Manchester did likewise. If there was a valid New Hampshire title in Arlington, Sunderland, and Manchester where Kempe, Duane, and Rutherford had later been given their twenty-six thousand acre grant by New York, their New York title amounted to nothing.

The complaints or informations of Governor Wentworth, sometimes spoken of in admiralty law as libels *in personam*, were drawn in John Tabor Kempe's best style and were addressed to "the Worshipfull Richard Morris Esquire, Judge of the Court of Vice Admiralty for the Province of New York in America." They alleged the felling of seventeen white pine trees by the Deans at Windsor since November 20, 1768, that each of the trees was of twenty-four or more inches in diameter at three feet from the ground and that all were fit for masts for the Royal Navy. For this, the libels asked against each of the defendants a judgment of fifty English pounds for each tree or an aggregate of fifteen hundred and thirty pounds in the currency of New York. On these libels, John McKesson, the deputy register of the vice admiralty court, signed three separate warrants, called writs or precepts, for the arrest of the several defendants. These papers were dated on April 26, and were returnable forthwith.

After conference with Kempe in July, McKesson made the subpœnas for the witnesses returnable the second Monday of October, 1769. Thereupon Thomas Ludlow, the provost marshal, "upon the recommendation nomination and Risque" of Governor Wentworth designated Benjamin Whiting as the deputy marshal to serve the papers and forwarded them to the governor to be handed to Whiting. For the history of the next steps in the prosecution we are indebted mainly to Mr. B. H. Hall.

Whiting, having received his instructions on August 27, reached Windsor with his warrants, subpœnas, and a brace of pistols on August 29, only to find that Captain William Dean had gone to Springfield, Massachusetts, on business. Willard Dean and William Dean, junior, however, were at home and Whiting easily placed them under arrest at their father's house. Here he intended to keep them for a couple of days

while he himself was interviewing possible witnesses in the neighborhood and working up the case. That his prisoners should not escape that night he exhibited to a magistrate (who was probably Esquire Israel Curtis) a proclamation issued by Governor Sir Henry Moore requiring all officers in the province to aid the deputy. If it was Curtis to whom Whiting applied it will be clear from what follows that little inducement was needed. At all events, as Governor Wentworth subsequently reported to Lord Hillsborough and the officials of the British Navy and Treasury, the magistrate detailed six men to assist in controlling the two Dean boys who were "somewhat turbulent."

Mr. Hall gives the names of seven assistant captors. For the duty of guards for the night Whiting chose Benjamin Wait and Samuel Patrick whom he supplied with pistols and ammunition. Instructing them to shoot if the prisoners attempted to escape or took advantage of attempted rescue, he left. In the morning Wait was relieved by James Rosebrook who remained on guard during the day with Patrick while the Dean boys were preparing for the sorrowful journey to New York City. Towards evening there appeared at the house Solomon Emmons and David Getchell who announced that they had been sent by Israel Curtis, justice of the peace, with orders to relieve Patrick and Rosebrook as guards for the night. Emmons and Getchell then took the weapons and remained on duty until next morning. On the morning of the 31st of August, while William Dean, junior, was standing by the door of their home, Israel Curtis came up. Perhaps some words ensued. Evidently young Dean told the 'Squire to keep out. Mr. Hall says that Curtis, upon this, seized Dean, and pushing him a considerable distance, shouted "You blockhead, you rascal, how dare you bid me not to come into your house? Don't you know that I am a justice of the peace? I have a right to break into your house and break all the locks that are in it, and have the right to pull your house down over your head, and, by the Living God, I will make you know it in less than one month." Upon that, the angry justice took the pistols from Emmons and Getchell and handed them to Enoch Judd and Elnathan Strong with orders to "fire the prisoners through

or break their bones with clubs should they attempt to escape." So terrifying was this scene to poor Rachel Dean, the wife of William, junior, that she fainted.

~~It is~~ not an altogether pleasant task to recount such episodes as this which is perhaps, after all, a fair sample of what might be expected to happen in the backwoods in those early days; and it is somewhat disquieting to find our substantial Windsor settler, Israel Curtis, acting the part of a swash-buckling bully and terrifying women.

A little before noon on August 31, Whiting reappeared, placed the prisoners in charge of Benjamin Wait and James Rosebrook and ordered the party to start for New York City by the way of Hinsdale (Vernon). Whiting, on horseback, preceded them alone. They followed more slowly—both guards and prisoners on foot—and the evening of September 1 found them at Ranney's tavern in Westminster. Here, who should appear but John Grout, attorney at law, of Chester? He must have heard of the arrest of the Dean boys by a message from Windsor and have been requested to meet them at Westminster. He took charge of their case at once, delivered a lecture to Wait and Rosebrook on the impropriety of carrying loaded pistols when the prisoners did not offer to escape, and asserted that in the absence of Whiting nobody had authority to keep the prisoners under arrest. On the promise of the Dean boys that they would follow their guards submissively, the pistols were unloaded. Then, at the request of the brothers, Grout started for Springfield, Massachusetts, to apprise Captain Dean of his sons' predicament and to get for them pecuniary assistance. On Saturday evening, September 2, the prisoners, guards, and Grout made Hinsdale (Vernon) where they rejoined Whiting who had, in the meantime, made another arrest. What took place in Hinsdale is told at great length and in every detail by Mr. Hall and in various papers printed in the fourth volume of the *Documentary History of New York*. While the matter was deemed important enough to be made the subject of an investigation by the New York authorities on Governor Wentworth's demand and to be reported in full to the British home offices, it bears so directly on the subsequent course of events in Windsor that the

story will have to be recounted here. The incidents, in brief, follow.

Benjamin Wait, Deputy Whiting, and John Grout had conversation with each other at Hinsdale on the evening of Saturday, September 2. Grout seems to have opened the discussion by urging Whiting to take the prisoners through to New York by way of Massachusetts and Connecticut because a good road lay that way and because the law permitted officers to take prisoners through those colonies, and because the path over the Green Mountains was extremely difficult. Here Benjamin Wait, who had become suspicious of Grout, interposed and informed Whiting of what Grout had said while they tarried at Westminster. Grout thereupon repeated to Whiting what he had previously told Wait and Rosebrook, namely, that the two latter were not lawful custodians of the prisoners and that nobody had a right to intimidate the prisoners by firearms. Next morning Grout left for Springfield, Massachusetts, while Whiting, Wait, Rosebrook, and the two Deans passed the Sunday at Hinsdale.

On the morrow, which was Monday, September 4, early in the morning, appeared Judge Samuel Wells, of Brattleborough. Wells, who has been mentioned before, was a judge of the court of common pleas of Cumberland County, and at that time was perhaps the most prominent and influential settler on the New Hampshire Grants and was a popular character. He had had a conversation with Whiting in Brattleborough on the Saturday previous and they had discussed the matter of the best route to New York. Whiting had said his prisoners were at Hinsdale, which was several miles south of the path leading across the Green Mountains, and that he understood that it would be lawful to carry the prisoners through Massachusetts and Connecticut on a warrant issued by the New York court of vice admiralty. Wells had replied that he knew of no such law, but that there would be great difficulty in finding the way through the woods and across the Green Mountains. Whiting had remarked that he would get advice before deciding, and then left for Hinsdale.

Judge Wells's arrival in Hinsdale was at the moment when Whiting was going across the Connecticut River to New Hamp-

shire to get the advice of Daniel Jones and thus Judge Wells had opportunity to talk with Benjamin Wait and the two prisoners on the choice of routes. Wait said he believed that Whiting would choose the path through the woods, to which Judge Wells replied "You had better go down the river and then you can go by water and have a good road all the way." Judge Wells then mentioned the chance that if they went through Massachusetts Grout might secure the arrest of Whiting and the two guards on a charge of false imprisonment and obtain the release of the Deans and that if this were accomplished the Deans would never be captured again. On returning from consulting with "Lawyer" Jones, Whiting announced that he believed he would go through the woods. There is some conflict of evidence as to what was next said, but Deputy Whiting states that Judge Wells then advised him to go through Massachusetts and that there would probably be no difficulty in so doing. On learning that Whiting was determined to try the path across the mountains Judge Wells declared that they would never succeed in getting through the woods.

On Tuesday, September 5, Whiting, with the guards and prisoners, retraced their steps to Brattleborough to take from there the path over the Green Mountains. At Brattleborough, at Judge Wells's saw-mill, the party again fell in with Judge Wells who on this occasion spoke more emphatically. He expressed the wish that the Massachusetts route had been taken and that Grout might intercept the party and free the prisoners. He asserted that the arrest of the Deans was a spiteful action on the part of Governor Wentworth and that he (Wells) would like to help the Dean boys and would liberate them if he could. Major John Arms, the sheriff of the county, who happened to be present, asked all hands to stop at his house for refreshments. The invitation was accepted, Judge Wells sent to his own house for an extra supply of rum, Major Arms provided a dinner and all drank freely and had a merry time until Judge Wells began to banter Deputy Whiting on what might have occurred if the party had proceeded through Massachusetts. This angered Whiting and the banquet seems to have ended in a row. Starting west from Major Arms's

house, the Dean boys found it hard to keep pace with Whiting who was on horseback, whereat Whiting threatened to tie them to his horse and so drag them over the mountains. Judge Wells seems to have smoothed matters out so that the procession finally moved off in good order.

That night Whiting, the guards, and the prisoners spent at Abel Stockwell's house in the township of Marlborough. During the night a mob assembled and threatened the rescue of the Deans. Nothing violent, however, took place and the mob soon dispersed. Whiting and Wait apparently believed that Judge Wells was in some way responsible for the gathering of the mob, but there is no evidence to support the charge.

The story, as given above, is substantially that related by Benjamin Wait in an affidavit printed in the fourth volume of the *Documentary History of New York* at page 387, supplemented slightly by other accounts in the same volume. It is probably pretty close to the version that was related by Wait to the people of Windsor when he returned to his home, and it left an impression on their minds. Governor Wentworth, who soon got wind of it, was so thoroughly incensed at the conduct of Grout and Judge Wells that he wrote a sharp letter to Lieutenant-Governor Colden complaining of their behavior.

Grout interviewed Captain Dean at Springfield on the morning of September 4 and informed him of the arrest of his sons. As soon as Captain Dean had finished attending to a case of his which was pending in the common pleas court in Springfield he started for Hinsdale hoping to find that Whiting and the prisoners were still there. He reached Hinsdale several hours after they had left. The day following he went to Brattleborough. Here he met Judge Wells who informed him that Whiting had a warrant for his arrest also. Captain Dean at Judge Wells's advice then set out for New York and overtook Whiting about thirty miles from New York City. He then surrendered himself to Whiting and on arriving at New York was lodged with his sons in the "New Gaol."

CHAPTER XVI

THE DEANS ENGAGE EMINENT COUNSEL

AFTER the Dean boys and their captors left Stockwell's house in Marlborough on the morning of September 7, 1769, we have no account of them until they and their father were landed in jail in New York City on or before October 2. In the interval, on September 11, had died Sir Henry Moore the governor of the Province of New York, and once again the able and aggressive Lieutenant-Governor, Doctor Cadwallader Colden, assumed command. This circumstance, though it made its mark on Vermont history, apparently did not affect the fortunes of the Deans.

On October 2, on the motion of the advocate-general, Judge Morris ordered that each of the prisoners must answer to the charges on or before the following Friday. On October 6, their counsel, James Duane, appeared in court with an answer he had prepared on behalf of Captain Dean and asked that the captain might be accorded leave to swear to its truth. To this John Tabor Kempe, the advocate-general, objected and the answer was filed provisionally without oath but with the understanding that Mr. Duane might argue the motion later. Mr. Duane then moved that each of the prisoners be released from custody on entering a general appearance as a defendant. This motion the court denied. On October 13 Mr. Duane moved that bail be fixed and on the same day argued his motion for leave to file a sworn answer. On October 18 the court fixed bail in each case at one third the penalty demanded by the libels, but the prisoners finding it impossible to procure bail remained in prison. The court also ordered that Willard Dean and William Dean, junior, must file answers within eight days and decided that none of the answers should be under oath. On this day John Tabor Kempe, on behalf of the informant, filed an elegantly worded replication to Captain Dean's answer. The court allowed Mr. Duane two days to file a rejoinder on behalf of the captain. This rejoinder

was filed on October 21 and on the same day Mr. Duane filed answers for each of the captain's sons. On October 27, the advocate-general presented to the court Benjamin Whiting, Elijah Granger, and Benjamin Wait who were sworn as witnesses against Captain Dean. On November 1 the advocate-general filed written interrogatories that he intended to propound. The next day he filed additional interrogatories. On November 4, Benjamin Wait and Elijah Granger were sworn as witnesses against Willard and William Dean, junior. On November 24 it was ordered in each of the three cases that "publication do pass in this cause immediately."

The foregoing items, taken from the court records now in the keeping of the United States District Court for the Southern District of New York, while of not the slightest interest to a casual reader may strike a reader of professional training as of value in showing the procedure of that period in the ancient admiralty courts in the American colonies. What is, or should be, of interest is the fact that James Duane appeared as the prisoners' counsel. How Captain Dean, a comparatively poor man brought unexpectedly from the remote woods of Vermont to a strange and distant city, should quickly get in touch with and be able to retain one of the most distinguished lawyers in the American colonies is somewhat remarkable. All that Duane himself is known to have said on the subject is found in an affidavit of his in which he states that Captain Dean and the two sons applied to him to defend them in October, 1769, while they were then in jail and under prosecution at the suit of the surveyor-general of the King's Woods, and that from what they told him and from "several depositions" he thought "that it was a hard prosecution" and "undertook their defence."¹ It would seem that he had not been assigned to defend them at the direction of the court.

We have already pointed out that Mr. Duane, John Tabor Kempe, and Walter Rutherford had received a grant from the Province of New York for twenty-six thousand acres of land that had previously been granted to others by New Hampshire. This might account for James Duane's willingness to appear as counsel in a case which plainly contained

¹ 4 *Doc. Hist.* 404.

possibilities of serious import to one who claimed land on the New Hampshire Grants solely through a New York title. Nor is this mere surmise on the part of the writer. In Governor John Wentworth's official report of this case, addressed to the lords commissioners of the treasury and others, he says that "Mr. Duane, an eminent, patriotic lawyer was engag'd for the Trespassers . . . and in a few days it was insinuated to great numbers of rich men in New York that the successful execution of these laws would be more injurious to landowners than the Stamp Act: which word is as infectious in America as the plague & as unaccountably seizies upon the soundest constitutions. It thus operated in this. Almost ev'ry man that heard it became alarmed, and without further enquiring took part with the prisoners,—supposing, if they were convicted, that it would be a precedent in the future; . . ." ¹ Here the governor adds that the landowners feared that they would lose the right to cut timber; but in this conclusion he quite misses the point. Captain Dean knew what it meant for others if his New Hampshire title under the Windsor charter should be found sufficiently valid to support a forfeiture on his conviction. Duane saw the point and so did John Tabor Kempe and Walter Rutherford. There was no need for Captain Dean to worry about Mr. Duane's fee, for James Duane and his friends had more at stake than the captain had. They appreciated indeed the chance that the conviction of the Deans "would be a precedent in the future."

Still, we are without information as to how Captain Dean got in touch with so prominent a lawyer in the month of October. There is a little more light on this point in an earlier letter written by Governor Wentworth to Judge Morris on October 5, 1769. The governor writes that on that day Whiting had reached Portsmouth from New York and reported "that thro' the arts of Mr. Dean this prosecution has been represented as ruinous to *every landowner in the Province of N. York* many of whom are becoming thereby his support and defence. It is therefore my indispensable duty to carry the prosecution thro' the whole course of the law, that his Majesty may be informed whether and wherein all the Acts of

¹ John Wentworth's letter of October 22, 1770.

Parliament and *reservations in the patents* are ineffectual to the preservation of the Royal woods." The italics are ours.

"Ruinous to every landowner in the Province of *N. York*" only? Why not equally ruinous to those "gentlemen of respect and property" in Portsmouth, New Hampshire, whom the governor had mentioned to his friend Colonel Bayard? It hardly seems possible that Governor Wentworth could have misunderstood Captain Dean's thrust or have failed to appreciate that the New York landowners held titles largely under Colden's New York grants while the citizens of Portsmouth held exclusively under Benning Wentworth's. In all probability Judge Morris handed this letter over to John Tabor Kempe, the advocate-general, who was thus again and more definitely reminded of Governor Wentworth's determination to demand the forfeiture of Captain Dean's land by virtue of the "reservation" of the white-pine timber in the New Hampshire "patent" of Windsor and Captain Dean's breach of a condition. One wonders if Kempe could have mentioned James Duane's name to Captain Dean, or whether the suggestion came from Judge Samuel Wells or John Grout.

It must immediately have occurred to such a lawyer as James Duane, if not to Tabor Kempe, that they better be securing judicial decisions upholding the validity of their own New York grant in Arlington, Sunderland, and Manchester. Thus it was, without doubt, that they bestirred themselves to institute those famous ejectment suits in the Supreme Court of New York at Albany, in which they appeared as counsel for the holders of New York land titles. They realized full well that in that forum they had a good chance of victory, while if Governor Wentworth should be an antagonist as surveyor-general of the King's Woods, in forfeiture proceedings under a New Hampshire charter, they might expect a litigation carried through to the House of Lords by an adversary of power and influence far beyond their own and with a hostile interest on the part of the Crown to boot. Obviously it was better, from the lawyer's standpoint, to get the first blood in a title suit, and they believed that the impecunious New Hampshire settlers were far less formidable factors to oppose than the surveyor-general of the

King's Woods, with his titled Wentworth patron in England.¹

Of these two lawyers, although Kempe was the attorney-general of the Province of New York, Duane was the more important figure. Not only was he of more commanding talents; but through his connection by marriage with the Livingstons he was a man of exceptional station. Later, with the Livingstons, the Schuylers, and General Montgomery, he cast his fortune with the Revolutionary patriots, was a member of the Continental Congress, and was a factor of influence and conservatism in the early days of New York's statehood. He served his city as mayor. He was appointed by President Washington as the first Federal judge in New York. Kempe, on the other hand, remained faithful to his official post and loyal to his King. He was attainted, his property was confiscated, and he went to England. Before the Revolution these two men seem to have had close professional and business relations. They came to be regarded by the settlers on the New Hampshire Grants as among their most bitter and hated enemies.

¹ Charles Watson-Wentworth, Marquess of Rockingham.

CHAPTER XVII

THE DEANS ARE CONVICTED

CAPTAIN DEAN's answer to the information filed against him by the surveyor-general of the King's Woods differs in some particulars from Mr. B. H. Hall's version of the case as already given. It began with complaining of the hardship of having to stand a prosecution in admiralty instead of a trial by a jury of Cumberland County, complained of arrest for want of bail and complained of the circumstance that bail had been required. The answer then proceeded to state Captain Dean's version of the facts as follows:

He had purchased a New Hampshire title for lands on the Lower Meadow in the township of Windsor. These lands he desired to clear and improve that from them he might raise bread for the support of his family. Wishing to avoid the possibility of being charged with a violation of the timber statutes, he asked Benjamin Whiting, a deputy surveyor of the King's Woods, to mark such of the trees as were unfit for masts for the Royal Navy. This application Captain Dean made some time about the end of November or the first of December, 1768. Although Captain Dean offered Whiting "large pay" to make the desired survey, Whiting said he had an errand which called him elsewhere at the moment, but that on his return he would attend to the business. On Captain Dean's enquiring if he might cut trees in the meantime, Whiting consented on condition that the trees were not rolled into the river but were left lying on the land so that he might inspect them later. Captain Dean, on reflection, thought it unsafe to act upon this informal and conditional permission, because he was then at odds with two of his neighbors, Israel Curtis and Benjamin Wait, who had taken offence at the captain's purchase of some land that they had been bargaining for. In fact, the captain believed that Curtis and Wait, in a spirit of revenge, had prompted this prosecution. Therefore, on the day after his talk with Whiting, Captain Dean set out

to visit the surveyor-general himself at Portsmouth, one hundred and fifty miles away, for the sole purpose of having a deputy surveyor appointed for the vicinity of Windsor.

The captain asserted that on reaching Portsmouth he saw Governor Wentworth, who said he was willing to appoint an additional deputy on the recommendation of Colonel Atkinson. Colonel Atkinson suggested the name of Simeon Olcott, whom the governor agreed to designate. Captain Dean, having been assured that the appointment or deputation would be complete in an hour, went out. At the end of the hour the captain returned to the governor's office, where he found Whiting and Captain John Peters, another deputy surveyor. Then Governor Wentworth stated that there seemed to be a sufficient number of deputy surveyors already, that both Whiting and Peters had given their word to him that they would survey the trees as reasonably as anybody else could, and that he would prefer not to increase the number of deputies. Still, if Captain Dean insisted, the governor would depute Olcott. The captain concluded to withdraw his request for another deputy, whereupon Peters said that he himself would be at Windsor directly to make the survey. Whiting also promised that he would be there if Peters were prevented.

So the captain returned to Windsor and waited. He and his sons "did frequently with great hardship and danger cross Connecticut River in the depth of winter to prevail on the said Whiting to perform the said survey," but without avail. By this neglect on the part of Peters and Whiting the captain had at his farm six oxen, two horses, and four men unemployed for six weeks. The captain then admits that, despairing of securing the promised survey, he did cut down the trees, but left them lying as Whiting had advised, and did not roll them into the river. The captain said the trees were not fit for masts, anyway, and, moreover, that he expected to be able to prove that all the trees fit for masts that had formerly stood on the property were marked by Deputy Surveyor Moses Burnham in the year 1764, and were thereupon cut and removed for the use of the Royal Navy, and that the remainder of the trees were at the same time condemned by Burnham as unfit for the naval service. In conclusion, the captain reit-

erated that he was induced to cut the trees merely for the purpose of clearing his land and not for the sake of the profit in the timber. Indeed, as he asserted, he had refused an offer for standing trees which were more accessible for the market than those he had felled.

The answers of Willard and William Dean, junior, follow closely the form of their father's answer, with the addition that they acted merely as their father's servants. Altogether, these pleas of the captain and his sons presented a suggestion of justification, but it was perhaps quite as well for the defendants that the court did not permit the answers to be sworn to, since the proofs in the case indicate a state of facts quite at variance both with those set up in the answers and with those narrated by Mr. Hall. The proofs, consisting of depositions by the three witnesses for the prosecution, were taken down in longhand as replies to the interrogatories filed by the advocate-general. Whiting's testimony seems to have been taken only in the case against Captain Dean. Wait and Granger testified in all three cases.

Whiting, whom we may call the first witness for the prosecution, testified that he was twenty-seven years of age, a resident of Newbury, a trader by occupation but usually engaged in surveying and other business. He had known Captain Dean for two years but had known him by sight for four or five. Whiting swore that in the month of January, 1769, Governor Wentworth sent for him and told him of having received from Israel Curtis the information that Captain Dean and his two sons had been cutting pine-trees fit for masts. Thereupon the witness set out for Windsor, saw the stumps and noted the size of the logs. While not an expert in masts, the witness thought the timber good, and he was the more of that belief because Samuel Stone had stated that the land on which the trees had stood was once his and he had preserved them because he thought them fit for masts for the Royal Navy.

To a reader with any knowledge of the rules of evidence in the courts of English-speaking people, Whiting's statement of what Samuel Stone thought or did would seem incompetent as testimony; but the instance is only one of many in the depositions in the Dean cases, where the witnesses were per-

mitted to recount their own and other people's beliefs, opinions, and conversations.

Whiting, continuing in the same strain, then went on to testify that he had brought with him to Windsor one William Ham, a mastliner who had worked in the mast yard at Portsmouth many years, and that Ham on inspecting the logs pronounced them "the best and prettiest Timber he had ever seen." Further than that, Governor Wentworth, who was also present, on hearing Ham's praise of the quality of the logs, seemed convinced that the trees were fit for masts. Historically, it is fine evidence of the excellence of the pine forests that grew in Windsor, but pretty thin stuff on which to send a man to prison.

Whiting admitted that he knew little as to the ownership of the Lower Meadow, but that he thought four or five lots were Captain Dean's, that one was Benjamin Wait's and one the property of Dudley Chase. On which of the lots the trees had been cut Whiting could not say.

As to his official duties, Whiting testified that he had been a deputy surveyor of the King's Woods since December 4, 1767, and that he had no authority to let anybody cut trees over twenty-four inches in diameter.

Whiting then proceeded to tell of his interviews with Captain Dean, beginning with one at Charlestown, on November 30 or December 1, 1768, when the captain asked him to mark some trees that might be cut. Whiting said at that time he was just starting out for Portsmouth, but promised to return to Windsor and make a survey. He testified that Captain Dean then represented the timber to be "very notty, scruby and bad," that such as was fit for masts had been cut years before and that what remained was so poor that it would scarcely make saw logs. To this Whiting replied that while he had no authority to give Captain Dean leave to go ahead and cut, still, if the timber in question was as bad as the captain described it, there was little chance that anybody would take advantage of its being cut without license.

Whiting next met Captain Dean at Portsmouth about twelve days later. At that time Whiting had just had an interview with Governor Wentworth, who enquired of Whiting

if he knew Captain Dean. Whiting testified that the governor then informed him that Captain Dean had called, and, having complained of being unable to get timber in Windsor surveyed, had asked if he might himself be appointed a deputy surveyor. The governor, according to Whiting, announced that he had declined to appoint either Captain Dean or John Grout, whom the captain had also suggested, and that Captain Dean then mentioned the name of Simeon Olcott. Whiting was also permitted to testify that Governor Wentworth thought neither Captain Dean nor John Grout a fit appointee. He further testified that Captain Dean then re-appeared at the governor's and that Captain Peters was there also.

At Portsmouth Whiting said he saw one Wendell, a notary, who informed him that Captain Dean was then buying land of Mark H. Wentworth or James Nevin or both. This piece of hearsay was introduced to contradict Captain Dean's claim that his trip to Portsmouth was solely to get his timber surveyed.

The rest of Whiting's testimony is almost all conjecture, hearsay, and argument. He was told by others that the largest of the seventeen logs was cut while the captain was at Portsmouth and the rest after his return; that Captain Dean's oxen or men were not unemployed; that the trees were cut for profit because the captain was said to have made a good timber contract and because the trees were cut partly on land of other people. Whiting did not believe that anything he had said at Charlestown could have encouraged Captain Dean into thinking it right to fell the trees, since twelve days later at Portsmouth the Captain was asking Peters to come and make a survey. The reason that Peters did not make the survey was because he was later informed that Captain Dean had already begun work and apparently had got a license.

Benjamin Wait testified that he lived in Windsor, was thirty-three years of age, a farmer, and had known Captain Dean for three years. Between December 20 and 30 he had been at Captain Dean's house and had heard Captain Dean direct Willard Dean, William Dean, junior, Benjamin Thurston, and Elijah Granger to chop logs. These four men he saw take their axes and go. He also saw them felling trees and

cutting logs. He heard Captain Dean say that he had returned from Portsmouth and intended to proceed to fell his timber. Wait then testified as to the size of some of the trees that had been cut, and swore that the operations continued until April. He thought that some of the trees were fit for masts.

The Lower Meadow, according to Benjamin Wait's testimony, belonged to Samuel Chase, James Wellman, Dudley Chase, Benjamin Wait, Joseph Wait, the Widow Patrick, Arad Hunt, and William Dean, and that it was divided into lots, of seven and one-half acres each, of which William Dean claimed seven. Wait swore that most of the trees were cut on Dudley Chase's land and a few on Captain Dean's. Wait knew the bounds, because he assisted in laying out the lots.

Wait testified that he not only saw the felling and cutting, but he saw the logs being rolled into the river. To Wait, Captain Dean had admitted having visited both Portsmouth and Boston on his recent trip and having bought Windsor lands at both places. In Wait's presence Governor Wentworth had spoken to Captain Dean on the Lower Meadow and had said that the captain was the person who had applied for a deputation and "would have made fine havock among the King's timber." Wait also testified that Captain Dean did not keep his oxen or men unemployed, but that, on the contrary, they had work to do under a county order to work out a public tax by six days' labor on the highway, and were also busy hauling firewood. As far as not cutting the trees for profit went, Wait testified to a statement by Dean that he had made a good bargain in timber and had agreed to deliver "choice good timber." Wait swore that out of friendship he had asked Joseph King to warn Captain Dean of the danger of cutting white pines without a license.

The star witness for the prosecution was Elijah Granger, a citizen of Suffield in Connecticut, twenty-five years of age. Really an aider and abettor of Captain Dean, Granger might almost be regarded as having turned state's evidence, although there was no complaint entered or process issued against him. He testified with zeal and force and he had real knowledge of many of the essential facts. He had seen Governor Went-

worth for the first time on the 21st or 22d day of January, 1769, on the Lower Meadow in Windsor. He had first met Captain Dean in September, 1768. Since the age of fourteen Granger said he had been used to hew, saw, cut, and work with timber and that he was a husbandman and engaged in sawing timber with a sawmill. He thought he knew something of trees fit for masts, and he testified having recently seen one Jones, a deputy surveyor, point out as fit for masts two trees inferior to those cut at Captain Dean's orders. Again, on the Lower Meadow at Windsor, he had heard William Ham, the mastliner, say in Governor Wentworth's presence that a tree cut by the Deans "was a very proper stick for a mast." Granger, it seems, went over the premises where the trees had been cut, as a sort of pilot for Governor Wentworth and William Ham. He testified having heard Governor Wentworth thus address the captain: "Mr. Dean, you have been guilty of a very ungodly trick. You are the person who applied to me at Portsmouth for a Deputation to be a Surveyor. You would have made fine havock by being a Surveyor. You came immediately home and went to cutting wood and destroying the King's timber."

Not all of Granger's testimony was of an improper sort, and part of it was extremely damaging. For instance, he detailed the terms of a contract made by Captain Dean for the sale of the timber which Granger had helped to cut. It seems that during the month of September, 1768, Captain Dean had come to the witness with an offer to sell a quantity of white pine timber, sufficient to make from six hundred thousand to seven hundred thousand feet of boards. Together they went to Granger's partners at Suffield, viz., Jacob Hathaway, junior, Charles Hathaway, Ebenezer King, junior, Zadock Granger, and Robert Granger, junior, with whom Captain Dean discussed a contract to deliver for them into Connecticut River enough white pine logs to make five hundred thousand feet of boards. Captain Dean said he would warrant the timber to be sound, free from "Shakes, Rotts & Crooks" and to float it the following spring. He also offered to send two men with the logs down the river. By the terms of the offer no logs were to be less than twelve or more than twenty-four feet in length,

none less than sixteen or eighteen inches in diameter, and none to exceed three and one-half feet in diameter—price *one dollar per thousand feet!* This would bring the total cost to five hundred dollars or two hundred pounds in New York currency. Captain Dean, according to Granger's story, also represented the timber as being on his land near his house on the Lower Meadow in Windsor. Granger and his partners objected that the price was too dear, whereupon the captain explained to them that his timber was extraordinary, that it had never been culled or picked, and that there was not better timber to be had in any other place on Connecticut River. That clinched the matter, and a contract was then and there concluded. Under its terms Elijah Granger, the witness, was to go to Windsor, work on the contract and supervise the cutting.

Granger thought that Captain Dean had also a smaller timber contract with one Copley of Suffield.

On the actual measurements of the seventeen trees, Granger was the most definite of any of the witnesses. He gave the entire list: the smallest being twenty-seven inches in diameter at the butt, the largest forty-four. Of the three that Governor Wentworth seized, the diameters at butt and tip and the length were as follows:

BUTT DIAMETER	LENGTH	TIP DIAMETER
32 inches	80 feet	24 inches
37 "	86 "	20.8 "
44 "	94 "	20 "

All the measurements were taken in Granger's presence on December 31, 1768, by Joseph King, Israel Curtis, and Benjamin Wait.

After Governor Wentworth's visit to Windsor Captain Dean, according to Granger's testimony, frequently "recriminated" himself for not getting Daniel Jones to survey the timber, and asked Granger to be out of the way for six months, so as not to be found as a witness, and intimated that it would be "the best six months by one half that ever he had spent."

On behalf of the three prisoners no testimony seems to have been received or offered. Possibly, as the testimony on

behalf of the prosecution came out, it occurred to Mr. Duane that there was little chance of obtaining an acquittal, and that matters might take a worse rather than a better turn if more witnesses testified.

On November 15, while the case was pending before the court, a singular thing occurred. It is reported in Mr. Hall's *History of Eastern Vermont*¹ and in the fourth volume of the *Documentary History of New York*.² It consisted of the execution of a bill of sale on that day by Captain Dean of all his goods and chattels to Judge Samuel Wells, of Brattleborough. It was done with the knowledge of James Duane, who acquainted the admiralty judge with the transaction and who represented that it was necessary in order to provide Captain Dean and his sons with the means of subsistence while in jail in New York.

On December 1, John Tabor Kempe, as advocate-general and as proctor in admiralty for the surveyor-general, moved that a decree be entered in favor of the prosecutor in each of the three cases. On the same day Judge Morris granted decrees in favor of the surveyor-general and against Captain Dean, Willard Dean, and William Dean, junior, in the sum of eight hundred and fifty pounds sterling, or fourteen hundred and eighty-seven pounds ten shillings New York money in each case. In the body of the decree against Captain Dean, Judge Morris reviewed the testimony and found that guilt in cutting white pines without a license had been abundantly proved, even though proof as to the fitness of the pines for masts were not clear. The latter consideration he deemed not essential. Thereupon the three prisoners announced that they could not pay the judgments, would waive the customary allowance of twenty days' time in which to raise the money, and asked immediate issuance of execution against their goods and chattels. The court so ordered, and writs of execution were placed in the hands of Benjamin Whiting, as deputy marshal, for levy.

Of course, Whiting was unable to seize any goods and chattels belonging to the Deans. Willard and William Dean, junior, apparently never had any of their own, and the Cap-

¹ *History of Eastern Vermont*, pp. 155-157.

² 4 *Doc. Hist.*, pp. 404-405.

tain had disposed of his to Judge Wells. Nevertheless, Whiting went to Windsor to go through the necessary motions, and there on the 29th of December interviewed Rachel Dean, the wife of William Dean, junior. The result of this interview Whiting reported on the back of the execution against Captain Dean, and thus accounted for the failure to satisfy the execution by a levy on any of the captain's goods:

"I was informed by the wife of William Dean junior who resided at the house of the said William Dean that he had conveyed them, before this execution was issued, to Samuel Wells Esq^r one of the Justices of the Inferior Court for said County whose attorney John Grout had taken into his possession and had secured them so that they could not be found; and of this I was informed by several other persons; and I also saw an Inventory of said goods and chattels amounting according to my judgment to one hundred and twenty pounds lawful money of New York."

Whiting, therefore, on January 29, 1770, returned all three executions unsatisfied and, upon this, Judge Morris sentenced Captain William Dean "to be committed to Prison there to remain without Bail or Mainprize during the term of Four Months or until the said defendant shall pay the Penalty and find sufficient security for his good behavior for the space of three years to be accounted from the first day of December last past being the date of his Conviction." The two sons received each a sentence of three months upon like conditions and, with their father, were taken back to the jail which had been their prison since the preceding October.

CHAPTER XVIII

JOHN WENTWORTH EMBARRASSES COLDEN

WHATEVER chagrin Governor Wentworth may have felt at not being able to collect any of the judgments against the Deans, it did not prevent him writing graciously both to Judge Morris and John Tabor Kempe for the manner in which those officers of the Crown had discharged their duties. Judge Morris, it seems, had written to the governor on the day following the convictions and had recommended to the governor that it would be a merciful thing to show clemency in the cases of the two sons. The governor replied on January 24, 1770, saying that the King's advocate at Portsmouth had advised withholding answer to this proposal until the executions had been returned, but "that this is now completed and I readily agree that they may both be discharged from prison, as they appear to have been led into the scrape by their wicked father who must suffer the penalty incurred by his own evil conduct." The letter closed with the important announcement that the governor had petitioned the governor and Council of New York that Captain Dean's land be escheated to the Crown since the land was held "under a grant in this Province which expressly contains a reversion & re-entry to the Crown upon cutting white pine timber—and the fact is proved. . . ."

On February 16 the governor received a letter from James Duane enclosing a petition for pardon signed by all three of the Deans. The application stirred the governor's compassion to such an extent that on that day he wrote John Tabor Kempe consenting to have all the prisoners released. To Kempe he also reported having addressed to Lieutenant-Governor Colden and the New York Council a memorial asking that the lands of Captain Dean be forfeited to the Crown for breach of the conditions in the Benning Wentworth charter of Windsor township. The court records show that the two Dean boys gave their recognizances for good behavior on February 20

and that Captain Dean gave his on March 12. Presumably the prisoners received their freedom on those days respectively.

Governor John Wentworth's letter and memorial to the Provincial Government of New York are printed in full in the *Documentary History*¹ and cover not only the petition for the forfeiture of Captain Dean's land, but a very spirited complaint against the conduct of Judge Samuel Wells in attempting to defeat the prosecution of the Deans and in preventing the collection of the judgments. The facts regarding Judge Wells are as have previously been related and were set forth in three affidavits transmitted by the governor.² The demand for the forfeiture of Captain Dean's land was squarely put on the ground that "by the express Terms of y^e Grant or patent of said Lands under the public seal of New Hampshire, the property reverts to the King with right of re-entry, upon cutting any pine Timber from off the premises, without License, as by the Second Article of the Condition in the annexed Copy may more fully appear." Governor Wentworth thus handed to Cadwallader Colden and his council a problem which was about as unpleasant and unwelcome as could be devised. It was indeed high time that James Duane and John Tabor Kempe were speeding the Albany ejectment causes to judgment.

¹ 4 *Doc. Hist.*, pp. 393-395.

² *Id.*, pp. 385-389.

CHAPTER XIX

RIOTS BREAK OUT IN WINDSOR

HAVING organized Windsor as a New Hampshire town, although it was legally within the Province of New York, Colonel Nathan Stone next turned his attention to the circulation of a petition asking that the region west of the Connecticut River be annexed to New Hampshire. What the wording of that petition was or to whom the petition was addressed could perhaps be discovered by a search of the British Record Office in London, but so far as the petitions of that period have been published there seems to be no copy of Nathan Stone's petition of 1769 in any of the histories. Simon Stevens of Charlestown mentioned it quite definitely in an affidavit which may be found in the *Documentary History of New York*¹ and says that it was addressed to the King. He describes it as asking that the inhabitants on the west side of the Connecticut River be made subject to New Hampshire. He says it was "promoted by Nathan Stone who has lately been very active against the Jurisdiction of New York" and Stevens fixes the time of its circulation as the fall of 1769. The affiant offered it as his belief that the petition was drawn by Governor John Wentworth. To similar effect are affidavits by Ebenezer Cole and Judge Samuel Wells² though neither of these affiants fixes the date so closely or mentions the name of Nathan Stone.

Governor John Wentworth was perfectly cognizant of the fact that petitions had been and were being circulated on the New Hampshire Grants. In a letter to Lord Hillsborough under date of February 18, 1770, he says that the settlers "for two years past" have had petitions before the New Hampshire Council and that he has "heard that the Inhabitants on the Lands west of Connecticut River have prepared a petition to his Majesty praying a confirmation of their titles." More informing is the governor's letter of February 27 to his kinsman, Paul Wentworth, of London, in which he writes that he

¹ 4 *Doc. Hist.* 423.

² 4 *Doc. Hist.* 418, 426.

has "been waiting till the last moment before the vessel sails for the petitions, instructions and appointment of the people on the West Side of Connecticut River who have unanimously intreated that you would undertake for them; but they have not yet brought it, . . ." He goes on to state that they have obtained a letter of credit from Colonel Atkinson to support the expense "and have form'd a petition to the King setting forth their Claim. . . ." "I don't think it well wrote," said the governor, thus freeing himself from the suspicion of having been the draftsman, yet at the same time showing that he was familiar with its contents before he had received it. By this time he had evidently heard of the eight or more ejectment suits then recently instituted in the New York supreme court against the settlers under the New Hampshire charters and he dwelt at length in his letters to the Earl of Hillsborough and Paul Wentworth on the oppression thus being practiced.

As the time for March town meetings came around, the inhabitants of Windsor determined to adhere to the precedent of the preceding year and hold a meeting on the second Tuesday of March according to New Hampshire law. "Wharas Thare is A Meeting appointed by the Charter Granted by New Hampshire," began the warrant, in open defiance of New York. Since the notice of this meeting is preserved and is the first warrant or warning of a town meeting that can be found among the Windsor records it deserves to be published in full.

"Wharas Thare is A Meeting appointed by the Charter Granted by New Hampshire for the freeholders and other inhabitants of Windsor to Meet or assemble on The Second Tusday of March Anewaly

"These are tharefore to Notifie and warn all the freeholders and other inhabitants of said Town of Windsor To Meet or Assemble att the Dwelling House of Mr. David Stone in s^d Town att one of the Clock in the afternoon then and there to Act on the following articles if thay think proper Viz.—

"1st To Chuse A Moderator to regulate Said meeting

"2^d To Chuse all Town Officers that are alowed or Directed to be Chose either by Law or S^d Charter

"3th To See if the inhabitants will agree to Some method to have Sealed waits and measuers

"4th To See if the freeholders will agree to Shut up their Swine

"5th To See if the freeholders will agree to Cleare the Meetinghouse yard

"6^{thly} To See if the freeholders will Except of the Highways that are Allready surveyed

"7^{thly} To See if the Town will agree to Raise the Mill Brook Bridge four five Six or Seven foott higher than it is now

"8th To See if the Town will agree to Build A Schoolhouse and whare thay will agree to set it and what Size to Build Said House

"9^{thly} To See if the freeholders will agree to purches A Town Book and Do anything else that thay shall think proper to be Done

"Given Under my Hands by order of the Selectmen att Windsor This 27th Day of Febr^y 1770

David Stone Town Cler^k"

The warrant bears the following well penned and well spelled endorsement by Thomas Cooper who appears to have been appointed constable in place of Ezra Gilbert sometime since the first town meeting:

"Cumberland County in New York Government—in obedience to ye within written warrant I have notified & warned ye inhabitants and freeholders of y^e town of Windsor to assemble and meet at y^e time and place within mentioned by me

Thomas Cooper Constable"

At this meeting, which covered sessions on four different days and ended on August 27, Captain Joseph Wait was moderator. The other officers chosen were frequently the same as those of the preceding year, but there were changes in several instances. In the office of constable we find elected Thomas Cooper and Aaron Bartlett. The latter replaced Cooper as a tythingman. Highway surveyors were reduced in number to two, viz., John Benjamin and Andrew Norton.

Samuel Stone replaced Norton as "Dear Reef," Joab Hoisington and Elnathan Strong became "Fence Vuers" and David Getchell and Joseph King were made "Hog Cunsabls." Clerk David Stone recites that he was chosen "Cealer of Waits & meshurs." It was voted to shut up the swine from April 10 to November 1, and to build a "Scool Hous twenty four foot Squar on a Convenat Place on the Publick yard" under the supervision of a committee consisting of Zedekiah Stone, Hezekiah Thomson, and Israel Curtis. Obviously it was worth while at least to teach spelling in Windsor and the meeting authorized the school committee to raise twenty pounds to build the schoolhouse and appointed Elisha Hawley collector for the committee.¹ Each person was to give a day's labor towards clearing the public yard. It was also voted to raise the bridge between Mr. Cooper's sawmill and the cornmill at the discretion of the highway surveyors. One pound was voted to Captain Joseph Wait to obtain weights and measures and a "Town Book." The records of the proprietors show that they also met that year on the several days of the town meeting.

It is likely enough that the disorder which became rampant in Windsor this year caused the interruptions in the town and proprietors' meetings of 1770. What the initial outbreak was or just when it started is unknown, but it is clear that it became an uprising of serious moment and was so regarded throughout the New Hampshire Grants. Even Ira Allen's *History of Vermont*, which is inclined to ignore those incidents in which no member of the Allen family was concerned, records that "Mr. Nathan Stone, of Windsor, raised a large party to oppose the overbearing power of the Governor and Council of New York, . . ." ² Governor Hiland Hall also mentions the uprising briefly in his *Early History of Vermont*, but he inserts his notice of it apparently as an afterthought and not

¹ No record of the building of this schoolhouse has been found. The "public yard" referred to in the minutes of the meeting was the property which now includes the Old South graveyard and the green to the north and south sides of the church. Somewhere on these premises this first schoolhouse was built, if it was, in fact, erected. There was a schoolhouse on the Common—perhaps on the site of the present Windsor High School—as early as 1788.

² Allen's *History of Vermont*, p. 22.

in its proper chronological place.¹ This uprising caused great concern at New York for, although there had been previous brawls or altercations in various parts of the New Hampshire Grants, this was an insurrection of formidable proportions, was conducted with leadership and organization and seemed directed against the authority of the Provincial Government of New York rather than in defending some specific parcel of land. Of the latter character had been the earlier disturbances in Springfield, Pownal, and Bennington. In the first, the aggressors were the Benning Wentworth grantees who had found and evicted squatters in Springfield township.² In the second, two alleged New Hampshire officials and some claimants under New Hampshire titles had evicted some old Dutch settlers in Pownal who held their titles under the ancient New York Hoosick Grant and thereupon the evictors were lodged in Albany jail.³ The last of these three clashes, whatever it amounted to, was in Bennington in the month of October, 1769, when commissioners in running partition lines for claimants under the New York Wallumschaak Grant had been frightened or pretended to have been frightened away from the Breakenridge farm by New Hampshire settlers.⁴ This Bennington occurrence seems greatly to have startled the New York authorities and therefore has received an exaggerated place in some of the histories. If there was on that occasion any rioting or resistance of authority as claimed by the New York authorities⁵ then Breakenridge and Samuel Robinson, junior, in giving their sworn account of it were perjurers.⁶ All of these episodes were trivial compared with what now took place in Windsor.

The return of Benjamin Wait to Windsor from New York with his story of the trial of the Deans and of the attempts at interference on the part of John Grout and Judge Wells may have struck the Windsor settlers as ground for righteous wrath. Then the visit to Windsor by Deputy Marshal Whiting in the fruitless effort to levy the execution against Captain

¹ *Early Vermont History*, p. 157.

² B. H. Hall's *History of Eastern Vermont*, p. 117.

³ *4 Doc. Hist.*, pp. 356-357.

⁴ H. Hall's *Early Vermont History*, p. 117.

⁵ *4 Doc. Hist.*, p. 379.

⁶ *Id.*, p. 380.

Dean's goods and chattels, the knowledge that Judge Wells and Grout together had made the levy impossible, the realization of the fact that a judge and an attorney of a New York Provincial Court had partially circumvented Windsor's friend, Governor John Wentworth, of New Hampshire,—all these considerations may have been enough to stir the people of Windsor to resort to violence. Further to aggravate their indignation Captain Dean, on returning to Windsor after serving his term in prison, spread the story that he had been supported in affluence by the liberality of rich men in New York who considered his cause theirs, and that he had lived well at little or no expense.¹

It was towards the end of the year 1769 and near the time of Whiting's visit to Windsor with his writs of execution that Colonel Nathan Stone became resolved that no writs or precepts out of the inferior court of Common Pleas or the court of General Sessions for the county should be served in Windsor. He announced that he had become convinced that the establishment of Cumberland County was a sham and not a reality and that the patent or ordinance for erecting the county was a libel in reciting that the inhabitants had petitioned for it. All of these thoughts and conclusions he confided, some five months later, to Judge Samuel Wells as they were together riding horseback through Windsor. Colonel Stone further said that justice was not to be obtained in the county on account of the corruption of the judges, the justices, and the other court officers. He mentioned particularly the sheriff, Daniel Whipple, who had recently been in Windsor to serve some precepts and who had been resisted and threatened by the citizens. The chief influence for evil, in Colonel Stone's opinion, was John Grout by whom the courts "were ruled entirely," and the colonel "was determined to oppose their authority while he had a drop of blood in his veins."

Colonel Stone could hardly have found a more interested listener than Judge Wells himself, for the latter was one of the three county judges of whose character the colonel had spoken so severely. Having counseled Colonel Stone to reflect on the danger of resisting the officers of the law Judge

¹ Letter, John Wentworth to Lord Hillsborough, Oct. 22, 1770.

Wells expressed the belief that if the people would offer no further resistance to lawful authority they, i. e., the colonel and the judge, could induce the "civil authority" to pass over the recent lawlessness "in the tenderest manner." Judge Wells further suggested that if Grout had done wrong there was doubtless some lawful way to punish him. Therefore he expressed the hope that Colonel Stone might reconsider his rash resolutions. But it was of no avail. Colonel Stone asserted that his determination had not been formed "on a sudden" but was the result of mature reflection and had been fixed in his mind for at least five or six months, that while he had life he would oppose the sheriff of the county and that "the people of Windsor and some other places would join him and stand by him to the last drop of their blood."¹

This announcement of insurrection, coming as it did, from a colonel of the militia, a former sheriff of the county and a then assistant justice of the county court, boded seriously for the peace of the New Hampshire Grants. That there was a grievance against Grout and Judge Wells was hardly to be denied. Of the other two judges, Judge Chandler's integrity has been questioned,² while Judge Joseph Lord, although spoken of highly by Mr. B. H. Hall, seems popularly to have been considered insane.³ Of the assistant justices, of whom there were seven, viz., Oliver Willard, Thomas Chandler, junior, John Chandler, Samuel Stevens, Nathan Stone, William Willard, and Thomas Bridgman, we know that John Chandler, as clerk of the court was subsequently removed for misconduct,⁴ and that Thomas Chandler, junior, was involved with his father in questionable real estate transactions.⁵ Whipple, the sheriff, was afterwards under charges of extortion and other misdemeanors in office.⁶ Very likely the court was not such as to inspire any degree of confidence and probably not a single judge or justice had the slightest education in the law. Perhaps the judge who had given most offence to the Windsor people was the one for whom Colonel Stone had the most regard, for even in the trying days of the American Revolution Judge

¹ 4 *Doc. Hist.*, 394.

² N. Chipman's *Reports*, p. 61.

³ N. Chipman's *Reports*, p. 61.

⁴ *History of Eastern Vermont*, pp. 636-637.

⁵ *History of Eastern Vermont*, p. 638.

⁶ *History of Eastern Vermont*, p. 726.

Wells's attractive qualities were enough to keep him on terms of friendship with the most noted Vermont leaders while he himself was consistently a Tory. Indeed on that day in May, 1770, as Colonel Stone and Judge Wells rode through Windsor township, the colonel assured his companion that it was friendship that induced him to keep the judge company through the town until most of the settlements had been passed, for, if the judge should ride alone through Windsor "he would be in danger of being assaulted by the people and have some violence done to him."¹

It is found by an examination of the records in the *Documentary History of New York* that one of the first transactions leading to the Windsor riots concerned Joseph Wait, Benjamin Wait, Nathan Stone, and Samuel Stone. What these men had done or what they had been charged with doing is unknown. It is known that a little later Joseph Wait and some other persons were under indictment in the Court of General Sessions on the charge of rioting, but it is not clear when the offence is alleged to have occurred or who the co-defendants were. The four men whose names have just been mentioned were for some cause or other apprehended by Sheriff Daniel Whipple sometime in the spring of 1770 and were rescued and freed by "a number of armed men." Of this arrest and the rescue nothing else seems now discoverable. A little later,—sometime in the month of May—Sheriff Whipple gathered together in Chester and elsewhere a posse of fifteen or sixteen persons for the purpose of re-arresting these same four men. Of the members of the posse, besides Sheriff Whipple, no names have been found except those of John Grout and Judge Joseph Lord. Grout's account of this transaction, which is set forth in an affidavit before Chief Justice Horsmanden of the Supreme Court of New York as the basis of a civil action for damages, is very explicit.

The sheriff with his posse on entering the township of Windsor made for the home of Joseph Wait. There they learned that the man they sought was at Benjamin Wait's. Proceeding thence towards the house of Benjamin Wait they had gone but a short distance when they saw approaching

¹ 4 *Doc. Hist.*, 394.

them in riotous manner a body of about forty persons armed with guns, swords, pistols and clubs. By what inspiration, accident, or premeditation this assemblage had formed itself just at that place and time no history tells. Grout mentions twenty-seven of those whom he remembers seeing in this band of rioters: first Colonel Nathan Stone, Joseph Wait, Benjamin Wait, and Samuel Stone, who, according to Grout, were the men whom the sheriff sought to re-arrest: then Peter Leavens, David Stone, Benjamin Thurston, Samuel Gridley, David Getchell, Jacob Getchell, Elisha Hawley, Ebenezer Hoisington, Ebenezer Hoisington, junior, Simeon Mills, Enoch Judd, Ebenezer Curtis, Solomon Emmons, John Benjamin, Andrew Norton, Jonathan Noble, John White, Samuel Whiston, Elnathan Strong, Joseph Thomson, Joseph King, Steel Smith, and Aaron Bartlett. Before this representative band of Windsor citizens and their allies marched, sword in hand, Colonel Stone. Nearly every family that is known to have lived in Windsor at that time is found identified with this particular body. The conspicuous absentees are Thomas Cooper, Israel Curtis, Andrew Blunt, Joab Hoisington, and the Deans. The absence of Zedekiah Stone, Hezekiah Thomson, and Caleb Benjamin could be accounted for by the dignity of age.

As the posse and the mob approached within earshot of each other Sheriff Whipple in due form of law made proclamation that the rioters disperse. This produced no effect and a moment later Joseph Wait with some of the others rushed upon the sheriff and the posse. Singling out John Grout as the particular object of attack, Joseph Wait, who had a pistol in his left hand and a club in his right, struck at Grout twice with the club. Grout managed to avoid the blows whereupon Wait leveled the pistol. This seems to have frightened Grout into submission. The other rioters then made short work of overpowering the sheriff and the rest of the posse. Having won the fight Colonel Stone's men violently seized upon Grout and the sheriff and several other members of the posse whom they carried to Joseph Wait's house. There the victors dictated the following preposterous terms, namely, that Sheriff Whipple, Grout, and some of the other prisoners should give a bond in the sum of five hundred pounds conditioned, first, that there

be no further prosecution of Nathan Stone, Joseph Wait, Benjamin Wait, or Samuel Stone; second, that no citizen of Windsor should be prosecuted for any crime whatsoever at the next term of court; third, that the sheriff should make return upon the warrants for the four men last named that not one of them could be found in the sheriff's bailiwick. Whether this or any bond was extracted from the prisoners Grout did not relate. After an imprisonment of seven hours Grout, Whipple, and the rest of the posse were set at liberty and suffered to depart.¹

This singular exhibition of lawlessness took place in Windsor in May, 1770. In his *Early History of Vermont* Governor Hiland Hall, after admirably describing the successful resistance encountered by the sheriff of Albany County in attempting to execute writs of possession on the Breakenridge farm in Bennington in the month of July, 1771, thus concludes: "Here, in fact, on the farm of James Breakenridge, was born the future state of Vermont, . . ." In view of what had happened in Windsor fourteen months earlier we should be obliged on the mere point of time to dissent from Governor Hall's award of any such distinction to the Breakenridge farm or to Bennington; for the resistance of the sheriff of Cumberland County by the men of Windsor on the road from Joseph Wait's to Benjamin Wait's was actually the first violent blow in that long and bitter fight between the settlers on the New Hampshire Grants and the government of the Province of New York. But at neither spot nor at either moment was born the future State of Vermont. In spite of protracted labor pains and the early cries or declarations of independence that state did not have its birth until the month of July, 1777, and the place was not in Bennington but in a house on the town street in Windsor.

¹ 4 *Doc. Hist.*, pp. 392-393.

NOTE: Since the foregoing account was written the writer has discovered among the Phelps Papers in the Brattleboro Public Library what purports to be the original or a contemporary copy of an indictment found by the Grand Jury of Cumberland County at the June, 1770, term of the Court of General Sessions. It charges the rescue of three prisoners from the custody of the sheriff at Windsor on May 21, 1770, by a mob of rioters. It is not clear whether the offence charged covers the first or the second of the affrays referred to in the foregoing

text. Nathan Stone, according to the indictment, was not one of those whom the sheriff sought to arrest in the first instance. This circumstance and the fact that the indictment alleges an actual arrest of three prisoners may indicate an error in the account contained in the *Documentary History of New York* and in B. H. Hall's *History of Eastern Vermont*, if, as a matter of fact, the indictment refers to the sheriff's second attempt to make the arrests. The indictment is very poorly drawn and the paper on which it is written is so badly mutilated that parts of it are undecipherable. For its curiosity as well as its historical value it is given herewith. Stars indicate the places where the paper is torn or where words or letters are illegible.

"New York Cumberland County

"At a Court of General Sessions of the Peace Holden at Chester within and for the County of Cumberland on the first Tuesday of June In the Tenth Year of the Reign of our Sovereign Lord George the Third King of Great Britain France and Ireland Defender of the Faith &c

"The Grand Jurors of our Said Lord the King for the Body of the County upon their Oaths do Present that one John Chandler Esq Clerk of the Court of General Sessions of the Peace as Well as one of his Maj*** Justices assigned to keep the peace for the *** aforesaid and one of the Quorum, Issued his *** under his hand and Seal as Clerk, to the Highsh*** of the County aforesaid in his Majestys Name *** Apprehend the body of Samuel Stone of Windsor in Said County Esq as pr the Warrant Dated *** Fifteenth Day of November Last past the Said Clerk of the Peace also Issuing one other Warrant under his hand and Seal as Clerk as Aforesaid Dated In the Tenth Year of his Majestys Reign D*** The said Sheriff to take the Bodies of Joseph *** and Benjamin Wait Gent Both of Said Windsor, the Said Sheriff on the Twenty First Day of May in the Said Tenth Year of his Majestys Reign, went with his Assistance to Windsor Aforesaid in the County Af*** and by Virtue of the Warrant Abovesaid Arrested the Bodys of the Said Samuel Stone Joseph Wait and Benjamin Wait and having so Done, Nathan Stone Joseph Wait and Samuel Stone Esq Benjamin Wait Benjamin Thustin Enoch Judd Solomon Emmons John White and David Gitchel Yeomen, all of Said Windsor being ill Designing and Disorderly Persons, not Having the fear of God before their Eyes, and not Regarding the Laws and Statutes of this Realmn, nor the *** and Penalties therein Contained but Wickedly malicil**ly and Unlawfully Assembled Together in an Armed, Highhanded Riotous way and Manner and with force a** Violence as Aforesaid in Windsor Aforesaid on *** T** First Day of May Aforesaid Nathan Stone Benjamin Wait Steal Smith Benjamin Thustin Enoch Judd Solomon Emmons John White and David Gitchel and Many other Persons not known, with Clubs and Armes Rescued the Said Prisoners from the Hands of the Said High sheriff and with Many Oaths and Imprecations Protested that they would spend all the Blood in their Vains before they would suffer the Sheriff to Touch the Said *** Stone Joseph Wait & Benjamin Wait to Carry *** away as Prisoners from Windsor aforesaid, where the said Highsheriff Daniel Whipple Esq had the Said Samuel Stone, Joseph Wait and Benjamin Wait In his Custody by Virtue of Said Warrant and for the Cause Mentioned in the Warrant as Aforesaid, In the Peace of God and our Said Lord the King and In Due Execution of his Said office, and the Said Nathan Stone Joseph Wait Samuel Stone Benjamin Wait Steal Smith Benjamin Thustin Enoch Judd Solomon Emmons John White and David *** and many

others as Aforesaid Against the Will of the Said Daniel Whipple the Highsheriff as Aforesaid with Force and Armes Unlawfully Forceably & Felnoiously did Rescue and put at Large to go where they would; viz The Said Samuel Stone Joseph & Benjamin Wait to the Great Hindrance of Justice in Contempt of our Said Lord the King and his Laws to the Evil Example of all Others in the Like Case offending Against the Form of the Statute in Such case made and Provided and against the Peace of our Said Lord the King his Crown and Dignity all which was Done Committed and Parpetrated after the Highsheriff had made the Following Proclamation in the hearing of the Said Nathan Stone Benjamin Wait Steal Smith Benjamin Thustin Enoch Judd Solomon Emmons John White David Gitchel and Others as Aforesaid at Windsor Aforesaid Just upon the Rescue Aforesaid our Sovereign Lord the King Chargeth and Commandeth all Persons Being Assembled, Immediately to Disperce themselves and Peaceably to Depart to their habitations, or to their Lawfull Business Upon the pains Contained in the Act Made in the first Year of King George for Preventing Tumults and Riotous assemblies and Notwithstanding the Aforesaid Proclamation being Made as Aforesaid the Said Nathan Stone Benjamin Wait Steal Smith Benja Thustin Enoch Judd Solomon Emmons John White David Gitchel and others Continued together in a Riotous and Tumultuous Manner in Windsor Aforesaid for the Space of More than six hours and st***k Sheriffs Assistants; held Several Prisoners and *** to *** Some of Said Assistants with Ropes.

Foreman

Noah Sabin."

CHAPTER XX

COLONEL STONE'S RIOTERS INVADE CHESTER

It will be perceived that in method the Windsor insurgents resembled those later marauders whose escapades under the leadership of Ethan Allen have formed such a large and fascinating part of Vermont's popular histories. There was the same boasting of intent and undying purpose, although not announced in Ethan Allen's oracular style. We perceive also the same sort of fantastic demands or exactions imposed on the lawful authorities. In brutality—for brutality was inseparable from the execution of the plans—the operations under Colonel Stone hardly equaled the Ethan Allen standard. In the quality of followers there was probably little to choose between the rioters on the east side of the Green Mountains and those on the west. Doubtless in the minds of some of the insurgents—perhaps in the case of Colonel Nathan Stone as conspicuously as in anybody else—personal advantage and love of adventure were subordinated to a belief that they were rendering a public service to the community.

Following the rout of the sheriff's posse in the month of May, Colonel Stone next planned to carry the war into enemy territory by launching an offensive in Chester, the county seat. That township was under the control of Judge Thomas Chandler and his family who were well supplied with New York government offices and of course were strong for upholding the government of New York. In Chester the courts held their sessions and Colonel Stone scheduled his attack for the opening day of the next coming session on Tuesday, June 5. Characteristically, he gave notice of his intended advance.

A letter, written by Israel Curtis to one Webb of Westminster, declared that Colonel Nathan Stone with Curtis and other followers intended "to assemble in a Tumultuous manner at Court." Webb permitted Bildad Andross to have a copy of this letter and Andross showed the copy to Judge Samuel Wells at Brattleborough the Sunday before the opening day of

the session. With such warning Judge Wells at once started for Chester so as to be there on time and he arrived Monday evening, having picked up on the way at Putney Judge Joseph Lord. For detailed information of what occurred at Chester we have the affidavits of Judge Wells and John Grout which are printed in full in the *Documentary History of New York*. We are again indebted to the research of Mr. B. H. Hall for his notes from an earlier manuscript affidavit by John Grout. A report of the affair by the county magistrates, mentioned in the minutes of the New York Provincial Council, seems to be lost. From the three available sources the following account is drawn.

Although nowhere so stated it is a reasonable inference that Colonel Stone and his band left Windsor very early on Monday, June 4, by boats and canoes on the Connecticut River and proceeded to a point opposite or a short distance above Charlestown on the Vermont side where a trail led to the west. Thence they proceeded on foot to Chester. Wherever they passed the night, whether at Chester or on the road, they probably slept in the open. Chester was then, in spite of being the county seat, scarcely more than a camp. Even a year later Judge Chandler related that most of those who had attended court at Chester had never seen more than the four or five habitations located near the county buildings and had chosen, being used to camp duty, to stay where they obtained their food and preferred the ground to a good bed.¹ Colonel Stone and his men were on hand bright and early in Chester Tuesday morning before the opening of court.

Judge Wells relates that outside the cabin in which the court was to sit he saw on that morning Nathan Stone, Joseph Wait, Benjamin Wait, Israel Curtis, Joseph King, Steel Smith, and a number of others assembled in a "Riotous and Tumultuous manner." He thinks there were about thirty in the company. Colonel Stone carried a sword, Joseph Wait a dagger or hanger and the rest were armed with staves or clubs. Judge Wells states the case very conservatively when he asserts that "it was feared by the Judges they designed mischief." Acting on that fear Judge Chandler, the first or presiding judge,

¹ *History of Eastern Vermont*, p. 178.

"mildly" asked of Colonel Stone the reason of his being thus armed, at the same time requesting the colonel not to carry his sword into court. Stone's reply was uttered in so low a voice that Judge Wells could not hear. Presently the judges went into the court-room and opened court.

No sooner was the court formally opened and the judges in their seats than Colonel Stone, armed with his sword and followed by his band of armed men, all "with their Hatts on," entered the chamber. Colonel Stone and Joseph Wait advanced to the bench, while the rest of the rioters remaining a few steps behind stood facing the court. Colonel Stone then spoke. He demanded of the court that he be told what business the three judges had to sit there as a court, adding that he made "this demand in behalf of the Publick." This remarkable question and the equally remarkable assertion were "seconded," according to Judge Wells, "by the said Joseph Wait and the said Israel Curtis." "Some of the judges"—Judge Wells does not say which—countered rather neatly by the observation that the letters patent or ordinance creating Cumberland County and the "Commission of the Pleas," which was always read at the opening of court, disclosed the authority of the court. It was perhaps not necessary for the court then to announce, as Judge Wells says it did, that those who wished to be enlightened on the point of the court's authority should have attended the reading. Colonel Stone, however, was not to be put off with any such legalistic stuff as that and thereupon he, with Joseph Wait and Israel Curtis "by many Arguments Denied the authority this Government had to erect the said County." While these arguments were going on and after they were finished the court deemed it discreet to make little answer other than to announce that the business on the calendar would be taken up.

Colonel Stone and his followers then struck another note by putting forward Joseph Wait who demanded an immediate trial on a charge of rioting for which he with others had been indicted.¹ The court now fully realized the danger of the situation. To place Joseph Wait and his co-defendants on trial

¹ This may have been either the indictment heretofore referred to or an earlier one of which no trace has been found.

at once would mean that any jury would be intimidated by fear of the armed mob. To refuse an immediate trial and to require bail for the defendants' appearance at the next term of court might excite instant acts of bodily violence directed at the judges themselves. "The insolent behavior of Joseph Wait, Nathan Stone and Israel Curtis and the martial appearance of them and their party, armed and ranged as aforesaid, being considered" the court informed the several persons under indictment that they might depart on their own recognizances. This suggestion was no more efficacious than the preceding.

Colonel Stone, Joseph Wait, and Israel Curtis then moved the court that John Grout be disbarred or "be disabled from practising" on the ground that he was "a bad man." On this motion the court ruled, rather speciously, that it had a good opinion of Mr. Grout and that if Grout were "a bad man" it was unknown to the court. The court then stated that if Stone, Wait, or Curtis desired to prefer a charge against Grout the clerk would assist them in drawing any necessary papers or they might apply to a higher court. The court pointed out that in any event if Grout were charged with an offence he would be entitled to a trial and that it would be unlawful for the court on the mere assertion that Grout was "a bad man" to prejudge him without evidence or particulars. To this Colonel Stone and Wait answered with naïveté that they were not accusing Grout in such a way as to give him the right of trial, that they were not obliged so to accuse him, but that the court might depend upon it that "the People" would be satisfied with nothing less than "Grout's being immediately expelled the court in such a manner as never to have the privilege of practising as an attorney." Then, as Judge Wells deposes, apparently in reference to Colonel Stone's next move, "directing his speech particularly to the first judge," he said "if it is not done we shall do something I shall be sorry to be obliged to do which will make your Honour repent not complying with our request." Upon this the men who had been standing back pressed forward, clubs in hand, and crowded near the bench. Judge Wells solemnly states that they came nearer "in a Riotous disorderly manner and shewed signs of a Resolution to carry their Point by force." It was "impossible

to proceed to business in this confusion and tumult" and so, to prevent the scandal of "violence committed while they were sitting as a Court," the judges ordered an adjournment to the next day. If there was aught else they could do and at the same time save their skins no such alternative is hinted at by Judge Samuel Wells. As far as Sheriff Whipple was concerned, the battles at Windsor had so cooled the sheriff's fighting ardor that Judge Wells does not even allude to him as a possible factor in preserving the peace in the emergency.

Of course an adjournment of the court was not at all what Colonel Stone and his company desired. If the court could adjourn from one day to the next it could keep up the process indefinitely. Judge Wells, Judge Lord, perhaps two or three assistant justices, and the sheriff were the only officers who had come from a distance. For them and for a jury panel, if there was one, provision in the way of board and lodging had been made in advance. The Windsor rioters, on the other hand, were without rations, funds, or credits for a long campaign. To commandeer from the countryside meant resentment against the insurgent cause. Plainly what had to be done must be done quickly. In this emergency Colonel Stone reasoned that the business of a court could not be transacted without the presence of a member of the bar. The bar of Cumberland County at that time consisted of John Grout lately of Windsor and now of Chester and Solomon Phelps of Marlborough. The latter resided at some distance from the court, paid only desultory attention to his profession and seems to have been afflicted with a mental disorder. Grout was attending court. If, therefore, the bar of Cumberland County for practical purposes existed only in the person of John Grout it occurred to Colonel Stone and his followers that the death or incapacity of Grout would leave the courts unable to deal with litigation. To kill John Grout or to incapacitate him through bodily wounds would accomplish the object but would be unpleasant, highly criminal and out of proportion to the amount of hatred for Grout that they actually felt. The men of Windsor were not criminal by nature nor were they bloodthirsty. Among themselves they hit on a safer and less repulsive measure which is described in the next chapter.

CHAPTER XXI

THE ABDUCTION OF JOHN GROUT

UPON the adjournment of court John Grout went into the cabin of John Chandler who was the county clerk or "clerk of the Peace" for Cumberland County. Whether Grout found there any of the Windsor rioters or whether some of them followed him into John Chandler's dwelling does not appear; but inside the building he was soon set upon by Benjamin Thurston and David Getchell who seized him and "forcibly and violently carried him" out and away to where the rest of Colonel Stone's men were assembled. In the band, which Grout estimated at near thirty persons, he recognized not only most of those mentioned by Judge Wells, but David Stone, Elisha Hawley, Ebenezer Curtis, Andrew Norton, Elnathan Strong, Joseph Thomson, Samuel Gridley, Jacob Getchell, Ebenezer Hoisington, Simeon Mills, Solomon Emmons, Jonathan Noble, Samuel Whiston, Ebenezer Howard¹ and Aaron Bartlett. All told, Judge Wells and Grout name twenty-four of the men who were implicated in this raid upon the court. Neither Wells nor Grout mentions Samuel Stone, while Grout overlooks Israel Curtis. With a few exceptions the names are the same as the list of those who fought and overpowered the sheriff in Windsor the month previous.

Thurston and David Getchell delivered their captive to the mob who immediately surrounded him. Armed with "sticks" they pressed in upon their prisoner and, after pulling, shaking, and "twitching" Grout "with the utmost cruelty," they hurried him off with them—Captain Joseph Wait in command of the company—on the road to Charlestown. The distance to Charlestown, which Grout states to be twelve miles, they walked with great rapidity. It was not a hard trip for "the hardy backwoodsmen of Windsor" but for Grout it was fatiguing, the more so because his captors treated him "with

¹ In the printed copy of Grout's affidavit this name is erroneously given as Ebenezer Heywood.

great incivility and cruelty" by pulling, shaking, and "twitching" him as they sped along. Twice Grout mentions this "twitching" as one of the forms of torture to which he was subjected. His original affidavits recounting the outrage have been lost and one wonders if the manuscripts have been correctly read. Is it not likely that the word he used was "switching" and that his captors thus made use of the "sticks" he says they carried? By such a reading one would have an instance of that practice referred to in Ira Allen's *History of Vermont* under which upholders of the New York Provincial Government were "severely chastised *with twigs of the Wilderness*." ¹

Two miles out of Chester they met Captain William Utley to whom Grout attempted to speak. The mob would have none of this and forced Grout back into the ranks with the injunction that he "could speak to no man in private."

The party reached the Connecticut River in due season and there, taking the boats and canoes in which they had made the journey down stream the day before, they crossed over to the New Hampshire side. They then proceeded to Sartwell's tavern in Charlestown for the night. Grout's manuscript account of the evening spent at Sartwell's is entertaining. Although he is unlikely to have perceived any humor in the situation it must have had its absurd side for it was evidently featured with the coarse buffoonery which so frequently marked the conduct of the Green Mountain Boys in their dealings with representatives of their oppressors. He says that both Sartwell and the Windsor rioters treated him "with as much humility and civility as could be expected under such circumstances." No doubt in the relaxation of that June evening, safe in a hospitable New Hampshire inn, beyond the jurisdiction of New York officers, the Windsor outlaws enjoyed themselves after the exciting scenes and the triumph of the day. "We have broken up the court" said they, and Grout agreed with them. "If we thought we had not effected it, we would go back and bring away one of the judges," said some of the band, fired, perhaps, with Dutch courage. Plying Grout with questions they asked if he thought the court would continue in session.

¹ Allen's *History of Vermont*, p. 26.

To this he deemed it discreet and in the interests of peace to answer that he was "sure" the court would not sit. It must have been a fine night of song and jokes and drinking at Sartwell's. One would like to know more of the details and whether the rioters sang that ancient Vermont classic:

"Fire upon the mountain! Run, boys, run!"¹

They kept Grout up until all hours besieging him with questions and conversation although he was well nigh played out and in dire need of rest and sleep. Next morning Colonel Nathan Stone assumed command of the rioters, proceeded on foot with them and their prisoner to the river and took the boats and canoes for the hard, sixteen-mile journey against the swift current of the Connecticut up to Windsor. Upon setting out for the day Colonel Stone had had the magnanimity to assure Grout that he should suffer no bodily hurt nor be in the least insulted but on the contrary would be treated with respect. Colonel Stone apparently regarded his captive in the light of a prisoner of war. "You must go to Windsor and be imprisoned at my house," said he, "and there you shall experience the kindness and generosity of our people." This was in marked contrast to other treatment Grout received, for, as he swears, "the rioters made use of the most shocking threats to this deponent in case he should attempt to escape, swearing that if this deponent was anywhere between Heaven and Hell he should be taken again." In view of such threats and the violence of the preceding day Grout seems to have been only partially reassured because he replied to Stone by merely expressing the hope that his physical weakness might excite compassion.

The journey to Windsor appears to have been accomplished before nightfall and Grout was then taken first to the house of Joseph Wait of which he had unpleasant memories associated with his visit of a few weeks before. Here, as on the previous occasion, the Windsor insurgents began to dictate terms. Steel Smith was the spokesman. Addressing Grout "privately" Steel Smith informed him that he might have his liberty im-

¹ *The Algerine Captive*, vol. I, chaps. VII and XI.

mediately on agreeing to certain conditions, the first of which was that he should send for his family and re-settle in Windsor. Such a proposal, in view of Grout's previous relations with the people of Windsor, must have been somewhat distasteful and he begged that pity might be taken on his exhausted condition which amounted to illness and that discussion might be reserved for another day. David Getchell now took a hand in the conference but both he and Steel Smith were finally persuaded by the prisoner to desist from pursuing the subject that evening and presently in the custody of Colonel Nathan Stone "amid the good wishes and low bowing compliments" of his captors Grout was permitted to go to Colonel Stone's home for the night.

Up through the Windsor settlements to Colonel Stone's home in the north part of the township walked the colonel and his prisoner. Grout began by begging Stone not to insist on discussion that evening, but it was no use. The colonel stated that the people of Windsor would re-assemble in the morning and would expect a decision. Therefore he urged it as to Grout's advantage to listen to the proposals and to make up his mind. "You must," said the colonel, "agree not to practice the law in this county. We mean that your agreeing to this shall be no disadvantage to you. We will make good all your damages if you will come and live in this town and become one of us. You will be treated with the greatest respect and shall have a genteel settlement." Colonel Stone added the further assurance that no one would object to Grout's practicing in New Hampshire. While Grout's affidavits do not offer to explain the motives underlying the proposals it is reasonably clear that Colonel Stone wanted to force Grout into adopting the cause of the New Hampshire party. The object of that party being the establishment of New Hampshire's jurisdiction over Windsor and the other Cumberland County towns there would be, if the object was attained, no Cumberland County of New York in which Grout could practice law. He would, by the change of jurisdiction, thus become a New Hampshire practitioner and in that capacity they would permit him to become a citizen.

Grout still persisted that he was too weak and ill to talk and

was allowed finally to go to bed to think the matter over. His answer, given to Colonel Stone for the people of Windsor on the following day, is copied in Mr. B. H. Hall's history as follows: "Violence has taken me out of my business. My wife is of slender constitution. Less trouble than this I have heretofore thought would have been too hard for her. The circumstances of my transportation will make her think I am murdered. My anxiety on her account and for my family deprives me of the power of speaking and almost of thinking. Why am I asked 'What will you agree to' or told I am 'free to act' my sentiments? I am in your power and you mean to impose terms and mean that I shall agree to them whether I am willing or not. Under my present circumstances I can agree to nothing. Willingly I take my liberty if it be offered me. I will say nothing to your people. Call them only to ask them what terms they have to impose and what punishment they will inflict on me if I disobey them, my masters." ¹ This answer, of course, did not earn for Grout his liberty. The threats against him if he attempted escape were repeated and he was permitted to write no letter to his wife or his friends unless it was first read and approved of by his captors. At the same time, as Mr. Hall informs us, Grout's creature comforts were attended to with care. He was also treated with a respect that seemed more like flattery than springing from true regard. On Sunday, the tenth day of June, after a captivity of five days, Grout effected his escape, but was unkind enough to have left no hint or explanation of how it was accomplished.

It would seem to have been a difficult matter for Grout, unaided, to have slipped from the custody of the Windsor rioters if they had been disposed to keep him a prisoner. He had, of course, a few friends in Windsor—notably the Deans—but there is no evidence that they came to his rescue. One item in an affidavit of Justice Oliver Willard of Hertford (Hartland) may, however, throw a little light on the subject. He testifies that he had been "instrumental towards preventing the late riots in the township of Windsor in which divers persons with Nathan Stone were very active." ² This affidavit, sworn to in the month of March, 1771, obviously refers to some

¹ *History of Eastern Vermont*, pp. 167-168.

² *4 Doc. Hist.*, 428.

of the disturbances we have been discussing; and while "preventing" seems a large word for him to have used, it is probable enough that Justice Willard, who resided not many miles north of Colonel Stone's home, may through personal influence or show of authority have persuaded Colonel Stone and his men to let Grout off. How long the lawless condition of affairs prevailed in Windsor is not clear. Plainly, from Justice Willard's affidavit, the riots were a thing of the past in March, 1771. Yet they were remembered by the dwellers on the Grants for some time after. In a letter of Judge Thomas Chandler's, written in the month of February, 1772, there are several interesting allusions to them. In the first he complains of the impropriety of nominating David Stone as a justice of the peace, saying: "Stone lives in Windsor among the Rietous Inhabitants where there is two parties and for this Reason I am of y^e opinion that to omit appointing any Justice of y^e Peace in Windsor for y^e present will be best, . . ." Again, in speaking of Sheriff Whipple, Judge Chandler observes that Whipple "was very faithfull in striving to apprehend the Windsor Rietors" for which good services the New York government "made him a Grant of a Township of Land." Judge Chandler also commended Judge Lord for his services to Cumberland County, "especially for assisting the Sheriff with the Posse when he went to apprehend the Rietors at Windsor, wherein he was very servisable in stilling the same, and for which he has never had any Reward as some others have had, . . ." ¹ There is further pointed allusion to the Windsor riots in a petition to the governor of New York by the inhabitants of Guilford under date of May 11, 1772, in which they assert as ground for favor "that your petitioners have always been staunch friends to the interest of this government particularly at the time of the unhappy Riots at Windsor. . . ." ²

In the month of August following his escape from Windsor John Grout went to New York City and there, on the strength of one of his two affidavits to which we have referred, obtained from Chief Justice Daniel Horsmanden of the Supreme Court an order for the issuance of process in an action or actions for

¹ 4 *Doc. Hist.*, 462-463.

² *Id.*, p. 476.

damages for assault and imprisonment against David Stone, Samuel Stone, Elisha Hawley, Enoch Judd, Ebenezer Curtis, John Benjamin, Andrew Norton, Elnathan Strong, Joseph Thomson, David Getchell, and Steel Smith. This matter, Mr. B. H. Hall says, does not appear to have been advanced beyond the original process,¹ but in this he is in error since the Supreme Court docket shows that the sheriff of Cumberland County made return on the 27th day of October, 1770, that he was unable to find any of the defendants except Steel Smith. The other ten residents of Windsor evidently had no difficulty in keeping out of the sheriff's reach. The sheriff's return is reported as follows:

"The Sheriff of Cumberland County returns the defendant Steel Smith taken and as to the others *Non Sunt*." Then follows the entry of this order: "On motion of Mr. Brush,² Ordered that the Sheriff bring in the Body of the Defendant taken, sitting the Court, or be amerced forty shillings and that the Defendant plead in twenty days after filing Declaration, or Judgment."

It may be worth noting that the judges of the Supreme Court sitting at the date of the sheriff's return were the Honorable Robert R. Livingston and the Honorable George Duncan Ludlow who had presided at the trial of the ejectment suits the June previous.

Why John Grout should not have included as defendants Nathan Stone, Israel Curtis and the Waits may possibly be explained by the fact that the magistrates of Cumberland County had anticipated him in filing with the New York Provincial Council on or before July 25 a formal complaint against Justices Nathan Stone and Israel Curtis impleaded with Joseph Wait and others. This complaint the New York Council referred to the New York Supreme Court for action and it may have been considered best by the chief justice and by Grout that the two proceedings should deal with separate defendants. No record can be found of what the Supreme Court may have

¹ *History of Eastern Vermont*, p. 168.

² Perhaps the notorious Crean Brush.

done by way of disciplining the two justices of the peace and their confederates nor is there any further record of Grout's action for damages other than the sheriff's return and the court order already quoted.

CHAPTER XXII

THE EARL OF DUNMORE

WHILE Colonel Nathan Stone was conducting his rebellion against the authority of New York, Ethan Allen made his first appearance as an actor in the affairs of the New Hampshire Grants. Allen's activities, following the pattern of Colonel Stone's initial efforts, had their beginning in lawful measures. He interested himself in the pending ejectment suits which Kempe and Duane had filed in the New York Supreme Court. In order to get to the bottom of these cases Allen went to the trouble of making a trip to Portsmouth to seek advice from Governor John Wentworth and to obtain from him a set of certified copies of New Hampshire charters and other papers bearing on the New Hampshire titles.¹ He also retained as counsel for the defendants Judge Jared Ingersoll² who, it will be remembered, was the person to whom Governor John Wentworth had first complained of the trespasses of Captain William Dean.

For a very full account of the trial in several of these ejectment suits the reader is referred to Governor Hiland Hall's *Early Vermont History* at pages 118 to 119. Suffice it here to say that when the cases came on to be heard the court ruled the titles under the New York grants to be valid and those under the New Hampshire charters to be void. The trials took place at Albany in the month of June, 1770, and in every instance the plaintiff recovered judgment. At the conclusion Ethan Allen bowed himself out of court with his famous cryptic remark that "the gods of the valleys are not gods of the hills."³ Defeated though he was, he had won through the decision of the court a lasting grievance which he and his followers regarded as nothing less than a miscarriage of justice and which they nursed until Vermont became independent.

The decision of the Supreme Court in these cases afforded a certain sense of relief to the New York Provincial Council

¹ Allen's *History of Vermont*, p. 23.

² *Id.*

³ *Id.*, p. 24.

which for several months past had been keeping in a pigeon hole the uncomfortable demand of Governor John Wentworth as surveyor-general of the King's Woods that the lands of Captain William Dean be declared forfeited to the Crown for breach of the condition against cutting white pines as set forth in the New Hampshire charter of Windsor. Now, the New York Council felt it safe to act. Accordingly, after waiting a reasonable time for some of the unfortunate defendants in the ejectment suits to file notices of appeal and no such appeals being taken, the Provincial Council on August 14, 1770, took up Governor Wentworth's "memorial" of the preceding February and referred it to a committee for investigation and report. The "memorial," as will be recalled, involved not only the matter of Captain Dean's conviction and the possible forfeiture of his New Hampshire title but also the conduct of Judge Samuel Wells.

The report of the committee, which dealt with both subjects, may be found in full in the fourth volume of the *Documentary History* at pages 396-397. It is a cleverly worded paper and worth reading. It exonerated Judge Wells in fine style for having accepted the conveyance of Captain Dean's goods and chattels. It asserted the committee's information regarding the judge to be that he "sustains a fair character even in a district where there are not wanting some Persons to whom, from their attachment to the unjustifiable Claim of the Province of New Hampshire and his zeal in asserting the Right and Jurisdiction of this Colony, he must be peculiarly obnoxious." This was quite a sarcastic dig at both Governor Wentworth and the people of Windsor. That its full effect might be felt a copy was sent to Governor Wentworth. The part of the report which deals with the demand that Captain Dean's lands be forfeited to the Crown is so adroit and so indicative of the policy of the New York Provincial Government that we must quote it at length. It reads as follows:

"With respect to the Request that the Lands granted in the Township of Windsor, under the seal of New Hampshire, be declared to be forfeited for a Breach of one of the Conditions in the Patent, the Committee conceive that advantages of

broken Conditions expressed in Royal Grants are to be taken in a legal course by regular Prosecutions against the Patentee; and that it would be manifestly improper to order any steps for that purpose in the Present case, because we consider the Grant which his Excellency refers to, as merely void for want of Authority in the Government of New Hampshire to issue Patents for Lands (as has been done in many Instances) on the West side of Connecticut River.

"But when the New Hampshire Grantees (who have generally by the Moderation of this Government been preferred to others) pray for new Patents under the Great Seal of this Colony, we conceive that such as have shewn a Disregard to the Terms under which they settled, in articles injurious to the Crown, & such also as have been guilty of Infractions of the Laws for the Preservation of Masts for the Royal Navy, are unworthy of his Majesty's Bounty, & that their applications for Lands in this Government ought to be rejected."

William Smith, afterwards chief justice of the Supreme Court of New York, as chairman of the committee which thus disposed of Governor John Wentworth's grievances, deserved congratulations. He was not to be caught in the slightest admission that the Benning Wentworth grants conferred any title whatever, and he pointed out an easy way by which the council could extricate itself from the dilemma of having to pass on Captain Dean's liability to a forfeiture of his land. It is scarcely to be wondered at that the council on September 29, approved and confirmed the committee's report.

Thus ended the life though not the political and historical importance of the Dean cases, which, whether intended or not by Governor Wentworth as the means of forcing the recognition of the New Hampshire titles, certainly had forced his adversaries to seek and secure the establishment of the New York titles by judicial decision. And here it should be recorded that the prosecution of the Deans, starting from the original spiteful moves of Israel Curtis and Benjamin Wait against Captain William Dean, affords the first example of what local feuds in Windsor have accomplished. While Windsor has been fertile in feuds, this one was perhaps the most far-reaching in its

ultimate results since it was one of the causes that contributed to produce the State of Vermont.

Chief Justice Smith's suggestion of an expectation that New Hampshire grantees would resume the practice of asking confirmation charters from New York is probably the reflection of the belief inspired by the judgments in the ejectment cases. There had been, moreover, some slight manifestation of a disposition on the part of England to remove or modify the sweeping restriction against the issuance of New York re-grants. For example, in reply to a letter from Lieutenant-Governor Colden reporting the receipt of a petition from one Lieutenant Cruikshank for a grant of lands, Lord Hillsborough had remarked in a letter dated February 17, 1770, that the petition seemed "equitable" and that the Lords Commissioners for Trade and Plantations would presently be advised to take into consideration everything pertaining to the settlement of the region west of the Connecticut River.¹ Inasmuch as this was in response to a suggestion from Colden that new grants by New York should be allowed in that region and that the prohibitory order of July 24, 1767, was the cause of retarding settlement, the remarks of Lord Hillsborough might have filled an optimistic New York official with hopes.

This was the posture of affairs when the Earl of Dunmore who had been appointed governor of the Province of New York on the 2d of January, 1770, reached his post of duty on October 19 of that year. This royal governor, the only one except General Monckton in whose honor Vermont has retained a geographical name, has been given a poor character by Vermont historians. He did, however, have the faculty of writing lucidly and was very interested in the duties of his post. To him we are indebted not only for the first census of the counties of Cumberland and Gloucester with a list of the heads of families in the various towns, but his short administration left besides these records quite a store of petitions and other documents which bear on the history of Windsor and the surrounding settlements. He was, like Colden, a Scotsman, which may have been one reason that the two fought each other with all the bitterness that greed and jealousy could engender in

¹ 8 *Lond. Doc.*, 205.

mature men. Having had for several years before the receipt of his colonial appointment a seat in the House of Lords, Lord Dunmore assumed something of an air of assurance and familiarity in writing official letters to England. For that reason his letters are especially interesting and informing even if he sometimes wrote with not altogether exact knowledge of local conditions.

One of the earliest letters of Lord Dunmore as royal governor is that addressed to Lord Hillsborough under date of November 12, 1770,¹ relating largely to the actions of Colonel Nathan Stone's Windsor insurrectionists. In this letter he described the conditions in Cumberland County as "truly lamentable" since disorderly people were "continually committing riots." He feared that little could be done to preserve order "when even the courts of justice are obstructed and their proceedings stopped." The instigation for the rioters proceeded, according to Lord Dunmore, from people of New Hampshire who were suggesting that the New York courts and magistrates lacked lawful authority, that the boundary decision would be revoked and that the jurisdiction of New Hampshire would be extended to the region west of the Connecticut River. Lord Dunmore had already felt called upon to deny publicly that there was any truth in the rumor of an impending change in jurisdiction and in his letter to Lord Hillsborough he made the strong point that the only real encouragement of which the New Hampshire sympathizers could boast was the order of July 24, 1767, whereby the New York government was forbidden to make further grants in the Vermont country. If this ruling could definitely be withdrawn, he argued plausibly and with force that tranquillity and prosperity would prevail throughout the region.

The tone of easy confidence of the Earl of Dunmore in writing this letter should be contrasted with the disappointed air with which Governor John Wentworth wrote to the Earl of Hillsborough on October 22, 1770, in explanation of the practical fruitlessness of the Dean prosecutions. A cost of £36, 17s. 10d. involved in the case of Captain Dean and £34, 14s. 10d. in each of the two cases against the sons made a total bill of

¹ 8 *Lond. Doc.*, 252.

£106, 7s. 6d. to be paid by the Navy Department for the expense of the three convictions. This loss Governor Wentworth attributed in part to the refusal of the New York government to order a forfeiture of Captain Dean's land and in part to the connivance of Judge Wells. For the latter the governor demanded expulsion from every position in the King's service. It is to be noted that in this letter Governor Wentworth made a very full report of the Dean prosecutions, transmitted many documents relating to them and thus caused to be spread on the British records a practically complete history of those famous cases of Windsor origin which affected so largely the future of Vermont.

During the autumn of 1770 Colonel Nathan Stone was occupied in getting signatures to a new petition or a new edition of a former petition. This paper was probably that of which a copy may be found at pages 412 to 413 of the fourth volume of *The Documentary History*. It was addressed to the King. It set forth that the petitioners, relying on the New Hampshire titles, had settled and cultivated the lands but were now threatened with ejectment suits and other law suits for "the enrichment of a few men in said Province of New York whose great influence is the destruction of our hard, honestly earned property. . . ." The petition recited that it was disadvantageous to the signers to have had the region made a part of New York. It also alleged their belief that the boundary decision was based upon false representations. Therefore the petitioners desired that the region be annexed to New Hampshire, for they had no confidence in the officials of the Province of New York "from whose operations our distresses have arisen." One item of historical value is the allegation that the New Hampshire officials "having read our Petition to them for Relief declare their inability to Take cognizance thereof as the premises are by your Majesty's order in Council commanded to be within the province of New York."

The draft for this petition was supposed to have been brought from Portsmouth by Benjamin Whiting,¹ and Judge Wells thought it the composition of Governor John Wentworth.² From the original draft a copy was made for circula-

¹ 4 *Doc. Hist.*, 413.

² *Id.*, p. 426.

tion in each of the towns on the New Hampshire Grants.¹ John Kelley of New York City made oath to having seen several of these petitions. He reports "that Nathan Stone, one of the Rectors of Windsor in the County of Cumberland, shewed this deponent another of said petitions which he said was delivered to him in order to be subscribed. . . ." ²

The signing of these petitions was not as popular as might have been supposed, but we have by no means a full list of the signers. Lord Dunmore thought that the subscribers did not much exceed two hundred. Out of that number we can account for fifty-six in the town of Westminster and twelve in Rockingham.³ It is possible that a search of the British Record Office in London would disclose exactly the extent to which this movement was supported. There we could perhaps confirm the statement of Justice Oliver Willard that "the strength of the opposition" to the jurisdiction of New York, "except on the west side of the Green Mountains, is in the Inhabitants of Windsor and Westminster."⁴ At all events we know that this statement of Justice Oliver Willard's, which was made in the month of March, 1771, became indisputably true in a few years, for among the inhabitants on the east side of the Green Mountains those two towns became the hotbeds of propaganda for the "new state."

To Lord Dunmore's gratification he was favored with a counter petition addressed to the King and signed under date of November 1, 1770, by four hundred and thirty-three inhabitants of the New Hampshire Grants. This petition asked for little but asserted much. It began with the statement that by the grant of King Charles the Second to the Duke of York in 1664, the Province of New York included "all the lands from the west side of Connecticut River to the East side of Delaware Bay"; it alleged the determination of the boundary dispute in 1764, the erection of Cumberland County in 1768 and of Gloucester County in 1770; it expressed satisfaction with the establishment of the New York courts in these counties and the administration of justice through such agencies. Then come recitals which go to the heart of the matter and concern

¹ 4 *Doc. Hist.*, 430.

² *Id.*

³ *Id.*, p. 413.

⁴ *Id.*, p. 429. See also the deposition of Samuel Wells, *Id.*, p. 427.

especially the political turmoil to which Windsor had contributed so generously. We quote from the middle of the petition:

"That in the month of June last, a number of disorderly persons seated in the township of Windsor in the County of Cumberland, assembled in a riotous manner & by threats obstructed the proceedings of the Court of Common Pleas; pretending that the Magistrates & Civil Officers were unauthorized, that no obedience was due to them; that the jurisdiction belonged to the Government of New Hampshire; that your Majesty's Royal Order aforesaid would soon be rescinded, and the Lands thereby declared as part of your Majesty's Colony of New York be decreed to appertain for the future to the Province of New Hampshire.

"That residing near the borders of the two governments, the said riotous persons have eluded the publick justice by flight into New Hampshire; and confederating with divers inhabitants there, have promoted a spirit of disorder and disobedience to the authority of your Majesty's Government of New York, by Signing and procuring the subscriptions of many persons in both provinces to a Petition, the avowed purpose of which is the change of Jurisdiction.

"That your Petitioners are persuaded this measure is calculated to elude the punishment due to those lawless transgressors; to promote the interests of individuals, who have made a traffic of the New Hampshire titles, and to aggrandize the family of the late Governor Wentworth,¹ for whose benefit reservations of land were made in all the numerous Grants which he thought proper to pass."

The petition proceeded to state it as the belief of the signers that the majority of the inhabitants preferred the advantages of the settled government of New York to any change in jurisdiction.

Of course all the New York officeholders, such as Judge Wells and Judge Chandler, signed this petition as did John

¹ Benning Wentworth, the former governor, had just died. John Wentworth was his nephew as well as his successor in office.

Grout, Captain William Dean, Willard Dean, and William Dean, junior; but the other names are so fairly representative of the character and citizenship of Cumberland County that one cannot dismiss the petition lightly. For example, among the signers we find the honored names of Paul Spooner and Benjamin Carpenter, who were among the most influential and active in the founding of the Republic of Vermont seven years later. But for the purposes of this history the signer whose name causes most surprise is Israel Curtis. How he within five months from the date he had assisted in obstructing the court at Chester, could come around to subscribing such a petition is remarkable. Possibly he had some misgivings or apprehensions of what might happen to him as a result of the complaint lodged against him and Colonel Stone in the New York Provincial Council by the judges of Cumberland County and then pending in the Supreme Court. Both before and after the date of the petition Esquire Curtis and Captain Dean were enemies. Yet in this matter these two men, who in mere business enterprise and initiative were perhaps the superiors of their fellow townsmen, stood out against what had been and still was the popular cause in Windsor. Such a defection was striking and was bound to weaken the insurgent party.

Governor Hall informs us that the leading characters among the Windsor insurgents seem to have been "appeased and reconciled to the New York Government by appointment to office and by becoming favored petitioners for land patents,"¹ but whether he made this statement as the result of independent research or on Ira Allen's dictum is unknown. Ira Allen, in his *History of Vermont*, had remarked that Colonel Nathan Stone, having raised a considerable insurrectionist party, "finally was overpowered and submitted; and soon after was appointed Colonel of the militia in the county of Cumberland, which then included all the New Hampshire grants east of the Green Mountains and west of Connecticut River."² In using the word "overpowered" Ira Allen intended elegant euphemism, since on referring to his index we find the above passage condensed into the short and ugly item: "Stone, Colonel, seduced by New York."

¹ *Early History of Vermont*, p. 157. ² Ira Allen's *History of Vermont*, p. 22.

In justice to the memory of Nathan Stone it should be pointed out that he had been a colonel or lieutenant-colonel of the militia for four years before the time that Ira Allen had him "seduced" by elevation to that office and that Cumberland County did not at that time or at any other cover so extensive an area as Ira Allen describes. It is true that some years later Colonel Stone again became active in attempting to secure confirmatory charters and other grants from New York. It is true also that in 1772 both Colonel Stone and Israel Curtis were appointed justices of the peace, but already they had been justices for several years and could hardly have been "overpowered" or "seduced" by the grandeur or emoluments of that dignified position. It is true, also, that David Stone, Joseph Wait, and Benjamin Wait were not backward in reminding the New York Provincial Government that they had served the King as soldiers and would accept bounty in the shape of soldiers' land grants, but their applications for personal grants seem to have antedated the Windsor insurrection. In fact, the only considerable "reward" that any Windsor insurgent is known to have received within a short time from the insurrection was the grant to Joseph Wait of five hundred acres in the southwest corner of Claremont, New Hampshire, and the donors were no other than Governor John Wentworth and the New Hampshire Council.

There must be some better explanation of the checking of Colonel Stone's insurgent movement than the "seduction" of the ringleaders. Certainly a more plausible one is that suggested by the character and number of the petitioners who represented to Lord Dunmore that the region west of the Connecticut was content to remain under New York's jurisdiction. The unpopularity of rioting as a means to an end, the defection of Esquire Israel Curtis, and the fact that New York authority had been pretty nearly battered down in Windsor should have been enough to warrant a cessation of hostilities for a period. Then, addressed to Lord Dunmore on December 1, 1770, there came another petition, signed by about four hundred persons (nearly all of whom had signed the petition of a month before), asking confirmation of their titles "on moderate fees" and stating that the peti-

tioners were "wholly unable to pay the patent fees demanded by the late Governor in chief of the Province for the lands so cultivated" by the unfortunate petitioners who had expended their worldly substance upon New Hampshire grants in reliance on the validity of the New Hampshire titles. It was the part of wisdom for Colonel Stone and his followers to wait and see what would happen to such a petition, supported as it was by a large and respectable body of signers, including their fellow townsmen Esquire Israel Curtis and Captain William Dean.¹

In the summer of 1770 there had occurred in Windsor a shocking tragedy which might well have had a sobering effect on the turbulent spirits of the town. The story has been preserved in Mr. Henry Swan Dana's excellent *History of Woodstock* in connection with his notice of Joab Hoisington. It seems that Aaron Bartlett, who was mentioned by John Grout as one of the mob which attacked Sheriff Whipple's posse in Windsor, and who was also with the mob that broke up the court at Chester, had gone with Joab Hoisington to hunt deer in the then thickly wooded swamp of the Pulk Hole Brook. This swamp, which, since the building of the dyke on the Evarts estate, is now almost entirely flooded by Runnemede Water, was then of large area. Hoisington and Bartlett, going in different directions, soon lost sight of each other. Later, through some error—perhaps mistaking Bartlett for a deer—Hoisington fired and killed his companion. "This event," says Mr. Dana, "cast great gloom over the new settlement." He adds that a coroner was brought from Charlestown to hold an inquest, and that after a searching examination Hoisington was acquitted of all blame. If Mr. Dana is correct, the Windsor people, even in the shadow of such a tragedy, would not recognize the lawful authority of New York by summoning either of the two coroners of Cumberland County, but sent to the neighboring Province of New Hampshire for an officer to conduct the inquest. The date of Bartlett's death was after the return of the Windsor rioters from Chester and prior to August 9, 1770, because on the latter date John Grout made his complaint against the Windsor rioters and men-

¹ 4 *Doc. Hist.*, 409-411.

tioned Bartlett as having been at Chester, but "since deceased."

Other causes, now unknown, probably contributed to subdue the Nathan Stone rebellion, but whatever they were the year 1770 saw its subsidence. Although by itself this uprising was a comparatively small affair, it was the beginning of the forcible and organized resistance that produced the State of Vermont. If, as Ira Allen truthfully says, it was "a bold stroke of a hundred men" to unite by resolution at Bennington to resist the governor and Council of New York by force,¹ it was equally bold for Colonel Nathan Stone and his Windsor followers, well in advance of the Bennington movement, to be the pioneers in the conflict and become the first band of "Green Mountain Boys." Colonel Nathan Stone and the men of Windsor, although overlooked in the popular histories of Vermont, struck the first blow and set the pattern and the precedent for those who won the glory and who have received the applause of posterity.

As the sign of Colonel Stone's final submission to New York, we may here incorporate the following remarkable letter, which has been preserved among the "Duane Papers" in the possession of the New York Historical Society. It was addressed by him under date of December 29, 1770, to William Smith, James Duane, and Goldsbrow Banyar, of New York. Perhaps not wholly ingenuous and certainly affected by self-interest, it nevertheless shows Colonel Stone's familiarity with the situation on the New Hampshire Grants. It also contains suggestions which, even if not original, seem to foreshadow the subsequent course of events. For its independent historical value, as well as its revelation of Colonel Stone, it is given in full.

Windsor, Cumberland County, 29th Dec. 1770.

Gentlemen

From a perfect knowledge of your Candure and Sincerity as well as firm attachment to the true Intrest of the Government of New York; I take the liberty of representing to you, a few Circumstances which if adopted will be highly advanta-

¹ Ira Allen's *History of Vermont*, p. 25.

gous to your Province. . . . The Inhabitants of this County being deeply Impressed with a tru Sence of the inestamable blessings they enjoy under the protection of the happy Constitution of Great Britain; and the mild and auspicious Reign of their most Gracious Sovrign; and being firmly attached to his Royal person family and Government, Conceive themselves entitled to the same Priviledges which are enjoyed by their fellow Subjects within this Goverment; that theire being urepresented in the General Assembly of this Province they esteeme a very peculiar Greeveance and Doubt not but the fatal consequences resulting from this Depreivation, will appear so clear to Gentlemen of your Superior Abilities as to need no Elusidation, and I flatter myself that you will be pleased to lend your kind aid towards redressing those Greeveances.

Many Circumstances unnecessary to be here mentioned militate against Continueing Chester the Shire Town of this County, but particularly as the principle part of the Inhabitants live on the banks of the River Conecticut in the Southerly and northerly parts of the County, it therfore seems expedient that two of the River Towns should be Established for Holding the Courts at (to wit) one in the Southerly and the other in the Northerly part of this County; and the Government of New Hampshire being Sensebile of the object the Inhabtients of this County make of obtaning the said Change have promised Some of them that if the Lands situate westward of the River Conecticut shuld revert to New Hampshire, that a Shire Town will be Constituted at each end of this County, by which promise they have brought Several of the Occupants in this part of the County over to their Intrest.

From recommendations given by sundrey Gentlemen in the Neighbouring Goverments who were attached to their Own Intrest, Several persons have been appointed to offices in this County whose princeples are utterly inconsistent with those Sentiments of Honer which you have always Cultivated, and the persons above alluded to have behaved in such a manner in the Provinces they came from as has put it out of their power to return back.

These Grants formerly issued by New York for Lands west-

ward of the Green Mountains having been included in some tracts many years after Patened by New Hampshire brought about the Controvercy which occasioned the Establishment of the Eastern Limmits of New York Goverment at the western banks of Connecticut River, and the same reasons it is Concevid will Opprate against the Grants passed at New York since the Date of The Patents under New Hampshire; and if the Gentlemen Claming under the New York Grants will condesend to sell upon easy terms to the grantees or proprietors holding under the prior grants from New Hampshire I flatter myself that I can get them to settle with and buy from the New York Grantees, as also get such persons as are in possession of the Lands so granted by New York anticedent to New Hampshire to purchase or take Leases from the New York Grantees at a price equvallent to the Value of the Lands; and the now possessors of them Lands will then be as firmly attached to the Goverment of New York as they at present are to New Hampshire.

With respect to my own Property I beg leave to observe that previeues to the Establishment of the Limmits of New York at the western banks of Connecticut River I laid out very considerable sums of money in Purchasing the principle part of three Townships (to wit) Windsor, Reading and Rutland, conceving the New Hampshire Title to be Good and Effectual and upon the arivieal of the Royal order of the 20th of July 1764 I found it nessary to take pattents under New York and accordingly applied to his late Exelencey Sir Henery Moore Barronet for the same who was pleased to direct me in what manner to apply and promised that I should have all my Lands which put me to above £ 100 Expences in collecting papres &c. necessary to make out the deduction of my Titles notwithstanding which the most Valuable Tract of the three was advised to be granted to gentlemen at New York without paying any regard to my Claims under New Hampshire or the said promise and since that time I have Expended Considerable sums of Money in Settling the said tract—Now Gentlemen what I have to offer is this that if the Goverment of New York will agree that all the Lands formerly granted by New Hampshire westward of the River Connecticut and

Settled Cultivated and Improved by the New Hampshire Grantees Should be Confirmed by Patents under New York so as to secure the Quit Rent to the Crown upon paying the officers of Government a Quantum Meruit for their services, I have it in my power on Receiving an assurance thereof to get all the Inhabitants on the East and west sides of the Green mountains to Petition that an end may be immediately put to the Controversey that has so long unhappily Subsisted between the Goverments of New York and New Hampshire by their unanimously Praying to Continue and hold under New York, and all the other Lands westward of Connecticut River not Culiveted and Improved to be patented by New York on the usual Terms as I Do not mean to favor the New Hampshire Lands Jobers and only want to Secure those persons that have been at Expence in Settling and Improving their Lands as well as myself. The Steps lately taken by both Goverments will I am convinced prolong the Determination of the Controversy so as that a war may Come on before it is Settled which would prevent any farther Steps being taken touching the promises untill the end thereof and Consequently prove Extreemly Detramental to every Land holder in this County.

Should you judge it proper to give me a favorable answer to this reasonable Proposal, and that I can have an opportunity of Communicating my Sentiments freely, I can inform you of Sundry particulares peculiously advantagious to this Government Relative to the said Controversy which at present I cannot in honor or Justice to my Frinds or myself Communicate.

I am Gentlemen your Most Obidant

and Very Humble Servant

NATHAN STONE

To the Honorable William Smith Esquire

James Duan & Goldsborow Banyar Esquires.

On October 14, 1770, Benning Wentworth died, leaving the bulk of his large estate to his young widow. It had been the belief of his Wentworth kin that they were to inherit his property, and their disappointment was great. In Mr. E. A. Bay-

ley's admirable memoir of General Jacob Bayley¹ it is suggested that Governor John Wentworth, who had expected to be the chief beneficiary under his uncle's will, was so affected by not sharing his uncle's property that he utterly changed his policy regarding the New Hampshire Grants and became an upholder of the New York authorities. This theory the writer cannot accept. Not only is it inconsistent with the known character of Sir John Wentworth, but it is contradicted by the fact that for more than ten months after his uncle's death Governor John Wentworth still clung to the hope that the Grants would become a part of New Hampshire. Indeed, it was not until the happening of other unfavorable events that he gave up all effort to have the New Hampshire Grants brought under the jurisdiction of his Province.

¹ *Proc. Vt. Hist. Soc.* (1917-1918), pp. 67-70.

CHAPTER XXIII

THE CENSUS OF 1771

LORD DUNMORE's census of the inhabitants of Cumberland and Gloucester counties is an item of historical interest. Probably it was never reported or printed in full and the original returns were doubtless lost in the Capitol fire in Albany in 1911. In the years 1849 and 1850 Mr. James H. Phelps, of Townshend, having access to the papers of Sheriff Daniel Whipple, found among them the manuscripts or copies of the Cumberland County enumeration with lists of "heads of families" in the several towns. These lists Mr. Phelps transcribed and then caused them to be published in the Brattleboro *Semi-weekly Eagle*. It is to the files of this newspaper in the Brooks Library at Brattleboro that one must look for the more interesting details of this important census, taken at the order of the Earl of Dunmore in 1771. Mr. B. H. Hall, in his *History of Eastern Vermont*,¹ gives a condensed statement of this census by towns. So, also, does the *Documentary History of New York* ²; and Doctor Samuel Williams, in his *History of Vermont*,³ gives a still more condensed summary.

By this census the population of Cumberland County, according to Doctor Williams, was 3,947, and of Gloucester County 722. Mr. Hall figures the population of Cumberland at 4,024. No separate census of the inhabitants west of the Green Mountains and east of the present New York boundary was taken at that time, but Doctor Williams's estimate that they numbered only about one-half the combined population of Cumberland and Gloucester has not been challenged. Accepting that estimate, we find the inhabitants of the New Hampshire Grants on the west side of the Green Mountains to have been 2,373, and their entire population to have been 7,119 in the year 1771.

¹ *History of Eastern Vermont*, p. 745.

² *4 Doc. Hist.*, p. 623.

³ Williams, *Hist. of Vermont*, 1st ed., p. 411; 2d ed., vol. II, p. 478.

By Mr. Hall's table Windsor stood but eighth in population among the Cumberland towns and had but 203 inhabitants. The towns of greater size were Westminster 478, Guilford 436, Brattleboro 403, Halifax 329, Putney 301, Rockingham 225 and Norwich 206. Windsor's inhabitants were classified as follows:

White males under sixteen.....	50
White males over sixteen and under sixty.....	57
White males of sixty and upwards.....	3
White females under sixteen.....	46
White females over sixteen.....	46
Black males.....	0
Black females.....	1
Total.....	203

Among these Windsor people were thirty-five "heads of families," *i. e.*, married men with wife or children or both. These heads of families in Windsor were as follows:

Caleb Benjamin	Joab Hoisington
Zedekiah Stone	Jacob Getchell
William Smead	Andrew Blount ¹
William Dean	Jacob Hastings
Nathan Stone	Solomon Emmons
Jeremiah Bishop	Elisha Hawley
Jonathan Holden	Israel Curtis
Ebenezer Howard	Joseph Wait
Samuel Seers	Andrew Norton
John Benjamin	David Stone
William Smead, Jr.	Samuel Stone
Hezekiah Thomson	William Dean, Jr.
Asaph Butler	Joseph Patterson
Elnathan Strong	Ebenezer Hoisington
Ebenezer Curtis	Thomas Cooper
Steel Smith	Ebenezer Davis
Benjamin Wait	John Amos (Ames or Eames)
Zephaniah Spicer	

¹ Elsewhere usually given as Andrew Blunt.

It is a list of plain and respectable New England names without a German, a Hebrew, an Irishman, or even a French Canadian in the lot. We miss some of the names that have already been mentioned in this history, but their absence does not necessarily mean that their owners were no longer living in Windsor. The list includes only "heads of families." Hence, for example, Willard Dean, being still a bachelor and making his home with his father, was not included. Some, however, had doubtless moved away. The three patriarchs of sixty and upwards were Zedekiah Stone, William Smead, and Caleb Benjamin. What family was then able to keep a female colored servant is unknown, but the family of Israel Curtis is as good a guess as any. Fifty boys and forty-six girls under sixteen years of age indicated generous broods of children in the thirty-five families. Like all new settlements, the male population in Windsor outnumbered the female.

Among these heads of families the most conspicuous, other than the men who have already been commented on in this history, were Ebenezer Curtis and Ebenezer Hoisington. The former was a blacksmith from Warwick in the Province of Massachusetts, an active patriot, a delegate to some of the early conventions, and one of Windsor's representatives to the first Vermont legislature. The latter was a carpenter and farmer from Southington in the Colony of Connecticut, a bitter opponent of the New York government, a delegate to the most important of the conventions on the Grants and perhaps the earliest and most outspoken Windsor advocate of the "New State" movement.

Two matters that had a bearing on the history of Windsor developed in the year 1771, viz., the agitation for the removal of the Cumberland County court house and jail from Chester to one of the towns on the Connecticut River, and a representation regarding the New Hampshire Grants controversy made by the Lords of Trade and Plantations to the Privy Council. The former matter aroused the interest of the more alert men of Windsor, since if it did not afford a prospect of Windsor's becoming the county seat it at least might result in bringing the center of county government to a point more convenient for the people of Windsor and far less inaccessible

for the county generally than the remote backwoods settlement in Chester. Although, as has been seen, Colonel Nathan Stone had made the suggestion, Judge Wells, of Brattleborough, was perhaps the organizer of this movement. Enlisted in the support of the measure we find both Colonel Stone and Captain William Dean. As early in the year as March 11, petitions on this subject came before the Provincial Council of New York. Mr. B. H. Hall, in his *History of Eastern Vermont*, at pages 173 to 186, gives a very full account of the steps taken to remove the county buildings from Chester.

The court house project was still pending when on June 6, 1771, the Lords of Trade recommended to the King's Privy Council a plan for adjusting the disputed titles on the New Hampshire Grants. At what date a copy of this representation reached New England does not appear, but it is certain that as soon as it was published on the Grants it must have dashed the hopes of those who had desired to see New Hampshire's jurisdiction extended west of the Connecticut River. Briefly, the Lords of Trade advised that the old New York grants, such as the Hoosick and Wallumschaak charters, created titles superior to any other grants in the Vermont country. Next, they recommended as worthy of consideration the actual settlers under the Benning Wentworth grants to the extent that such settlers had improved lands not within these ancient New York charter limits. Of the New Hampshire settlers the Lords of Trade observed: "for however disreputable their titles may be upon the ground of the grants themselves, yet there always has been and we think there always ought to be in the Plantations an attention to actual Settlement and Improvement."¹

One does not have to read further the recommendations of the Lords of Trade to see that the settlers in Pownal, Bennington, and possibly other western townships whose lands were overlapped by the ancient New York grants were to be affected very differently from actual settlers in the Connecticut Valley, where no early New York land grants had been made. The limitation which confronted the Windsor settlers

¹ 4 *Doc. Hist.*, pp. 435-439.

was not that they might lose the farms they had cultivated, but that they would be restricted to such land as they had actually occupied, cultivated, and improved. The representation further advised that the moderate quitrents named in the Benning Wentworth charters should not be increased on lands actually settled on and improved, but that as to those grantees or proprietors who had acquired New Hampshire titles without taking possession of the land and improving it, the best that the Lords of Trade would recommend was an application on the part of such proprietors to the New York Government for confirmation patents at higher prices than even New York had customarily imposed. This startling suggestion was sufficient to show the inhabitants of the Grants that for the future the New York Provincial Government was the only authority to be reckoned with, and that it would be a prudent course for those whose townships were not encumbered by ancient New York grants to secure New York confirmations of their New Hampshire charters on the best terms possible. While the Windsor settlers might retain their homesteads and their cultivated farms, there was a distinctly implied threat that their uncleared land and timber might be lost to them, unless protected by a New York title.

It is plain that the settlers between the Connecticut River and the Green Mountains now had reason to establish amicable relations with the New York authorities and had at least a prospect of adjusting the matter of title. It is equally plain that the settlers in the southwestern part of the Grants still had hanging over them the liability of being ejected by those holding title under the Hoosick and Wallumschaak grants. Worse than that, the representation of the Lords of Trade seemed to preclude the chance of finding either sympathy or favor in England. There is no question that from this time, from the force of varying conditions in land titles on the two sides of the Green Mountains, may be traced the divergence of policy between the settlers on the east and west sides of the Mountains; and if we accept the representation of the Lords of Trade as the key to the situation the motives of the settlers and their next moves are reasonably clear. It is the writer's belief that this representation was the chief cause of Gov-

ernor John Wentworth's relinquishment of the project to recover the Grants for New Hampshire.

Reverting, now, to the project to change the county seat of Cumberland County, we discover that the New York Government, while professing merely a desire to adjust that question in accordance with the will of the majority of those interested, saw in the situation an opportunity to stimulate a renewal of applications for confirmation charters. The scheme was ingenious. Nothing fairer than a vote by the duly chosen representatives or supervisors of the several settlements could be suggested for determining the site of the court house and jail, but in the legislative bill providing for this referendum there were various adroitly framed conditions under which each organized township and each "district" should elect not only its supervisor but assessors, collectors, and other officers that were common to incorporated towns within the Province of New York. The bill further provided that previous to the election day the judicial officers of Cumberland County should assemble in Chester and divide into "districts" such of the county as was not included within the limits of organized townships. The ulterior motive of the bill appeared clearly from the language of the fourth section which marked as the areas to be districted such parts of the county "as are not erected into Townships under the Great Seal of this Colony" and provided that such areas should remain as "districts" until erected into townships "by Letters Patent under the Great Seal of this Colony."

At this time it should be remembered that Cumberland County had perhaps but four townships that had been lawfully incorporated or erected under New York authority, viz., Brattleborough, Putney, Chester, and Hertford (Hartland). The inhabitants of these four towns were secure, under the court-house referendum bill, in the right to elect their own town officers without fear that persons who were not residents could vote or be elected. Not so with the inhabitants of Cumberland County residing on any of the other New Hampshire Grants: they might be districted with one or two or three other of the Wentworth township grants and, therefore, would not be self-governing. Windsor might be districted with

Weathersfield, Rockingham, and Westminster, and find itself on the day after election at the mercy of some non-resident tax assessors. The prospect was too unpleasant to be viewed with complacency. If the attitude of Lords of Trade made it advisable to resume friendly relations with the New York Government and to renew the application for a New York township charter, the court house referendum bill bespoke promptness of action along the same lines. This bill became a law March 24, 1772.

Still another consideration which must have weighed with the Windsor settlers at this time was the fact that the Benning Wentworth grant of Windsor provided as its fifth condition that

"Every Proprietor, Settler or Inhabitant shall yield and pay . . . yearly, and every Year forever, from . . . the twenty-fifth Day of December which will be in the Year of Our Lord 1772 One shilling Proclamation Money for every Hundred Acres he so owns, settles or possesses, and so in Proportion for a greater or lesser Tract of the said Land" Before defaulting in this matter of the New Hampshire quitrents it was well to ascertain whether a New York title could be secured. If letters patent from New York could be obtained there would be no further occasion to worry over the New Hampshire quitrents.

As if in anticipation of the fact that they would soon be seeking favor from the New York Provincial Government, the Windsor settlers at their March town meeting in 1771 clothed themselves with New York town offices. No intimation of this change of front appeared in the warning which was issued by David Stone as town clerk, with special reference to Windsor's New Hampshire charter, and which called for a meeting on the regular New Hampshire town-meeting day. Indeed, the town clerk, in warning the inhabitants "to Chuse all Town Officers according to Law Directed by the Charter" seems to have precluded, so far as he could, any expectation that the meeting would differ from those held in 1769 and 1770. Yet "At a Legal Meeting of the freeholders and Inhabatince of the Town of Windsor in the County of Cumberland in the Govrment of New York, held at the House of Capt.

Zedekiah Stone In^sd Windsor on the Second Tuesday of March 1771," after the choice of Deacon Hezekiah Thomson as moderator and David Stone as town clerk, there were elected the following:

Benjamin Wait, Supervisor.
Hezekiah Thomson, Thomas Cooper, and Ebenezer Curtis,
Trustees.

William Smead, Hezekiah Thomson, and Caleb Benjamin,
Overseers of the Poor.

Andrew Norton, John Benjamin, and Jeremiah Bishop,
Commissioners.

"Supervisors," "Trustees," and "Commissioners" were officers of New York towns. The "Selectmen," common to New Hampshire and other New England Provinces, were not chosen.

CHAPTER XXIV

COLONEL STONE MAKES UP WITH NEW YORK

IN August, 1771, Governor John Wentworth and a party of friends came up to Hanover to attend the first Commencement celebration of Dartmouth College, which had been founded the year before. Whether Colonel Stone took the eighteen-mile trip from Windsor to meet his friend the governor on that occasion is not known, but it is clear that from the governor he soon received, either directly or indirectly, an important suggestion.

Either on his way to Hanover or else after the Commencement festivities were over,¹ the governor extended his journey to the northward as far as Newbury, where he visited with Jacob Bayley, who was then and thereafter one of the most sagacious and upright characters on the New Hampshire Grants. Governor Wentworth consulted with Bayley on the prospect of bringing the Grants under the jurisdiction of the Province of New Hampshire, "was very jealous to get the lands on the western side of the Connecticut River," and desired Bayley's co-operation. Evidently the representation made on June 6, 1771, by the Lords Commissioners for Trade and Plantations had not yet reached New England.

About two months after the governor's visit to Newbury, which would have brought the time about to the end of October, Jacob Bayley to his astonishment received a letter from Governor Wentworth, setting forth that Bayley must make the best terms he could with New York, and that the governor of the Province of New Hampshire could do no more in the matter. So puzzled was Bayley at the governor's change of front that he immediately proceeded to Portsmouth to ascertain the cause. He got little or no satisfaction. Why the governor was not communicative does not appear. Perhaps

¹ Mr. George B. Upham, in his article on "The Province Road" in *The Granite Monthly* for November, 1920 (vol. LII, p. 439), states that Governor Wentworth visited Haverhill opposite Newbury on his way to Hanover.

he had received in confidence a copy of the representation of the Lords of Trade, was convinced that the game was up and could not say more. He succeeded in persuading Bayley to that belief, for on November 20 of that year Bayley's Newbury townsmen appointed agents to visit New York and formally acknowledge New York's jurisdiction. That Governor John Wentworth had given Jacob Bayley sound advice is abundantly proved by a letter written by the Earl of Hillsborough to the governor of the Province of New York on December 4, 1771, in which it was definitely stated that by the boundary decision of July 20, 1764, "all contests between the two governments in respect to territorial jurisdiction were finally decided."¹

Mr. E. A. Bayley's *Memoir of General Bayley*,² from which the foregoing items are mainly taken, proceeds with an account of Jacob Bayley's successful trip to New York City to get a New York township charter for Newbury. His route lay through Windsor and over the Green Mountains through Bennington. He doubtless saw Colonel Nathan Stone at Windsor and consulted with him, and there, if he did not start a new movement for a New York charter for Windsor, he at least stimulated a proceeding which was already under way. No Windsor record shows formal action looking towards the second application for a New York charter until the end of December.

In Bennington Bayley fell in with the Allens and their colleagues, who urged him to join them in resisting New York by force.³ Bayley would have nothing to do with the proposal, and incidentally he formed a low opinion of the leading personages on the west side of the Green Mountains.⁴ This opinion he retained. Indeed, the strength of his own character and his subsequent respected position as a Revolutionary patriot made his distrust of the Allens and the Fays, and, later, of Governor Chittenden, a complication of grave proportions in the affairs of the New Hampshire Grants.

Neither a meeting of the Windsor Proprietors⁵ nor a meet-

¹8 *Lond. Doc.*, 285.

² *Proc. Vt. Hist. Soc.* (1917-1918), pp. 67-68.

³ *Id.*, pp. 68-69.

⁴ *Id.*, p. 71.

⁵ The Windsor Proprietors held their last meeting in November, 1771.

ing of the Windsor Townsmen left a record in the year 1771 showing the authorization of Colonel Stone to resume relations with New York. We do find, however, in the first book of Windsor Deeds, at page 303, a remarkable power of attorney executed on December 30, 1771, by twenty-four Windsor inhabitants in favor of Colonel Stone and authorizing the latter to petition in his own name or in the name or names of anybody else for a new grant of the township of Windsor from the Province of New York. Not the least striking feature of this power of attorney is the circumstance that any of the people of Windsor should have thought it expedient to designate as their agent to treat with New York the very man who in the year previous had been the leader of a rebellion against New York's authority. Despite this seeming disqualification, the considerations which doubtless weighed most with Colonel Stone's constituents were that he had been to New York before and knew the way, that he could address men of position without stage fright or appearing a boor, that he had some brains and could read and write, that his penmanship suggested that of an educated gentleman and that he possessed whatever veneer of quality was supposed to go with the rank of a militia colonel and membership in the Church of England. The events proved that the people of Windsor selected their delegate wisely.

The fact that exactly twenty-four persons signed the power of attorney was probably not accidental. It was known that the township of Windsor contained something over twenty-four thousand acres, and it was also known that the New York authorities professed themselves unwilling to allow more than one thousand acres to each proprietor in a township. Colonel Stone and the twenty-four signers constituted twenty-five available grantees. The names of the signers were as follows: Zedekiah Stone, Andrew Norton, Solomon Emmons, Samuel Stone, Abel Stafford, Ebenezer Davis, Isabel Patrick, David Stone, Joseph Woodruff, Elnathan Strong, Benjamin Bishop, William Smead, Levi Stevens, Caleb Benjamin, Ebenezer Howard, Samuel Seers, Peter Leavens, Nathaniel Atkins, Jonathan Burke, Jeremiah Bishop, Samuel Patrick, Enoch Judd, Thomas Phelps, Jr., and John Benjamin.

The omission of the names of Steel Smith, Israel Curtis, Thomas Cooper, Joab Hoisington, and Joel Stone from the list of signers might, at first blush, be accounted for by the fact that they had signed a deed on October 9, 1766, conveying all their lands to Nathan Stone. This, however, was equally true of Zedekiah, Samuel, and David Stone who joined in the power of attorney. No member of the Dean family, neither of the Waits, nor Ebenezer Curtis, Elisha Hawley, Ebenezer Hoisington, or Hezekiah Thomson signed either the deed or the power of attorney. The names of several other Windsor residents appear in neither paper. It is quite possible that there was a division of sentiment in the town as to the propriety of again making overtures to the New York government since we have already noted the remark of Thomas Chandler of Chester to the effect that "there is two parties" in Windsor. It is not likely that the omission of the names of the Deans was due to partiality for New Hampshire. Their failure to allow their names to appear is more naturally attributable to the fact that they had been convicted of trespassing on the King's timber and that a committee of the New York Provincial Council had intimated that such conviction might well debar them from a right to receive the benefit of a confirmation charter. That Colonel Stone may have obtained in his own favor other deeds or powers of attorney that were never spread upon the Windsor records is not at all improbable.

Armed with his power of attorney of December 30, 1771, the deed of October 9, 1766 and perhaps with other papers, Colonel Nathan Stone visited the city of New York in the month of January, 1772. Here he enlisted the services of one William Swan, a New York schoolmaster who was similarly engaged with other applicants for confirmation charters and whose name had been proposed as one of the dummy grantees in connection with Windsor's earlier application for a charter. Colonel Stone found at New York a new administration. The Earl of Dunmore had been transferred to the post of governor of Virginia and had been succeeded at New York by William Tryon, lately governor of North Carolina. The latter had reached New York on July 7, 1771 and had assumed office on the following day. With the exception of Lieutenant-Governor Cadwallader Colden, Governor Tryon was the most business-

like and efficient head that the Province of New York had had in many years. Colonel Stone found him entirely ready to talk business.

Colonel Stone at once learned that the New York government while feeling no compunction against making a re-grant of Windsor township would insist either on payment of the charter fees in advance or else such security for the fees as would certainly result in their prompt payment. The latter alternative was, of course, the only one practically available but could be taken only by creating a substantial incumbrance on the lands of the township.

The usual method of effecting such security in all similar cases consisted in re-granting the townships not to the inhabitants or those holding New Hampshire titles, but to one or two of the inhabitants on the particular grant and a score or more of New York City residents with the understanding and expectation that the latter should retain their respective interests until the fees had been raised and paid. Such an arrangement commonly resulted in finding some person or persons of means who had an inclination to speculate in lands on the Grants and who would agree to pay the amount of the New York charter fees for an interest in the township. When this was arranged the New York dummies who were named in the New York charter would sign a deed conveying all their interest to the one or two actual residents in the township who were named in the New York charter, the latter would sign a deed for a certain number of acres in favor of the capitalist or investor, the capitalist or investor would pay the fees to the proper officers of the New York Government and the two deeds would be delivered. The actual resident or residents would then distribute the remaining lands to the inhabitants. With this explanation, which is merely a detailed repetition of the procedure already sketched in connection with the previous application of 1765, the reader will understand the following petition of Colonel Nathan Stone and the list of strangely named associates which he presented to the governor of the Province of New York:

“To his Excellency William Tryon Esquire Captain General and Governor in Chief in and

over the Province of New York and the Territories depending thereon in America, Chancellor and Vice Admiral of the same.

IN COUNCIL

“The Humble Petition of Nathan Stone and William Swan in behalf of themselves and their Associates whose Names are inserted in the Schedule hereunto Subjoined

“HUMBLY SHEWETH.

“That your Petitioners and twenty three other Persons who were Associated with them, did upon their Petition unto his late Excellency Sir Henry Moore Baronet deceased, then Captain General and Governor in Chief of this Province, in the year of our Lord 1765, Obtain an Order of his said Late Excellency in Council, for Granting unto them a Certain Tract or Parcel of Land situate lying and being in the County of Cumberland within the Province of New York, on the West side of Connecticut River, as by the said Order and the Warrant of Survey issued pursuant thereto, may more fully and at large appear.

“That in virtue of the said Warrant of Survey, the Lands before mentioned were Surveyed for your Petitioners and their said Associates, as by the Return of such Survey remaining in the Secretary's Office may also appear.

“That since the proceedings before mentioned the several Parties who were so Associated with your Petitioners, Save Mary Stone the Wife of your Petitioner Nathan Stone, have relinquished all their Right Title and Interest of in and to the said Lands, as by the Instruments in writing herewith presented unto your Excellency will appear.

“That your Petitioners and the Persons named in the Schedule aforesaid, being the only Persons interested in the said Lands, are desirous of suing out his Majesty's Letters Patent for the same.

“Your Petitioners therefore most humbly pray that the Letters Patent heretofore directed to issue, may pass in the Names of your Petitioners and their Associates mentioned in

the said Schedule, under the Quit Rent, Provisoos, Limitations and Restrictions prescribed by his Majesty's Instructions.

"New York 29th January 1772.

And your Petitioners shall
ever pray &c

Nathⁿ. Stone for
himself the other Peti-
tioner^s and their Asso-
ciates."

"Schedule referred to by the foregoing Petition

Waldron Blaau

John Abeel

William Puntine

Michael Nan

John McGinniss

Richard McGinniss

Robert McGinniss

Patrick Walsh

James Abeel

Edward McCollom

Adam Van Denbergh Jun^r.

Marinus Low

Edward Patten

Andries Riegler

George Klein

Henry Tiers

Thomas Lupton

Duncan Robertson

Samuel Stevens

John Pesinger

George Lucam

Francis Groome

James Cobham"

The petition and schedule bear the following endorsement:

"29th January 1772

Petition of Nathan Stone and

William Swan in behalf of

themselves and their Associates.

Rec^d 29^h Jan^y 1772

1772 January 29 Read in Council

and granted reserving the public

shares and giving the usual securities."

Of the language of this petition, the original of which may be found in the Secretary of State's office in Albany in volume XXX of *Land Papers* at page 100, there is little to be said save that it was something of a stretch of the truth to allege

that the petitioners were all the persons "interested in the said lands" although the township of Windsor was not mentioned by name or described by bounds or by other definite location. Still, the petition was doubtless in the form prescribed by the officers of the New York Government and, as the endorsements show, was favorably received. The earlier survey, however, was not deemed sufficient and a new one, definitely setting out the "public rights" and the Benning Wentworth reservation, had to be obtained. The return of this new survey, accompanied by a rough map, is to be found at page 17 in volume XXXI of the *Land Papers* in the office of the Secretary of State at Albany and reads as follows:

"Pursuant to a Warrant from his late Excellency Sir Henry Moore Baronet Then Captain General and Governor in Chief in and over the Province of New York and the Territories depending thereon in America Chancellor and vice Admiral of the Same bearing Date the twenty Ninth day of May 1766.

"SURVEY'D for Zedekiah Stone and his Associates ALL THAT Certain Tract of Land known by the Name of WINDSOR Situate, lying and being, on the west Side of Connecticut River in the County of Cumberland within the Province of New York BEGINNING on the West bank of the said River at the Distance of five hundrd and Six Chains and twenty links South, from the South bounds of a Tract of Land known by the Name of Hertford and this Tract runs from the said place of Beginning North Seventy four degrees West four hundred and Eighty Chains. Then North Six degrees East four hundred and Ninety four Chains. Then South Seventy four degrees East along the Said South bounds of Hertford to Connecticut River. Then down along the West bank of the said River as it winds and turns to the place where this Tract Began Containing twenty four thousand and five hundred Acres of Land and the Usual Allowance for Highways Including the five Lots herein after described, and Containing Exclusive

of the Said five Lots Twenty three thousand Acres of Land and the Usual Allowance for Highways The First Lot which is to remain Vested in the Crown Begins on the West Bank of Connecticut River at the Southeast Corner of the above Mentioned Larger Tract of which this first Lot is a part and runs thence along the South bound of the said Larger Tract North Seventy four degrees West One hundred and thirty Six Chains Then North Sixteen degrees East Forty Chains. Then South Seventy four degrees East to Connecticut River, and Then down the West Bank of the said River as it winds and Turns to the place where this Lot Began Containing five hundred Acres of Land and the usual Allowance for Highways. THE SECOND Lot for the use of the Incorporated Society for the Propagation of the Gospel in Foreign Parts Begins in the South bounds of the above mentioned Larger Tract at the South west Corner of the First Lot and runs thence along the said South bounds North Seventy four degrees West Seventy Nine Chains Then North Sixteen degrees East, forty Chains. Then South Seventy four degrees East Seventy Nine Chains to the first Lot and then along the West bounds of the said first Lot South Sixteen degrees West forty Chains to the place where this Second Lot Began Containing Three Hundred Acres of Land and the usual Allowance for Highways. THE THIRD Lot for a Glebe for the use of the Minister of the Gospel in Communion of the Church of England as by Law Established for the time being residing on the above mentioned Larger Tract. Begins in the South bounds of the said Larger Tract, at the Southwest Corner of the Second Lot and runs thence along the said South bounds North Seventy four degrees West Seventy Chains. Then North Sixteen degrees East forty five Chains. Then South Seventy four degrees East Seventy Chains to the fourth Lot, and Then along part of the west bounds of the said fourth Lot and the West bounds of the Second Lot South Sixteen degrees West forty five Chains to the place where this Third Lot Began Containing three hundred Acres of Land and the usual allowance for Highways.

“THE FOURTH LOT for the use of a Schoolmaster residing on the above mentioned Larger Tract Begins at the Northwest Corner of the Second Lot and runs Thence along the North

bounds of the said Second Lot South Seventy four degrees East Seventy Nine Chains to the fifth Lot. Then along the west bounds of the said fifth Lot North Sixteen degrees East thirteen Chains and forty links Then North Seventy four degrees West Seventy Nine Chains, and Then South Sixteen degrees West thirteen Chains and forty links to the place where this fourth Lot Began Containing one hundred Acres of Land and the usual allowance for Highways.

“THE FIFTH LOT for the first Settled Minister of the Gospel on the above mentioned Larger Tract of Land Begins at the Northwest Corner of the first Lot and runs thence along the North bounds of the said first Lot South Seventy four degrees East Sixty three Chains. Then North Sixteen degrees East fifty Chains Then North Seventy four degrees West Sixty three Chains and then South Sixteen degrees West fifty Chains to the place where this fifth Lot Began Containing three hundred Acres of Land and the usual Allowance for highways.

“GIVEN under my hand this Second Day
of March One thousand Seven hundred
and Seventy two.

ALEX^r COLDEN Survey^r Gen^l”

(Endorsed)

“March 2.^d 1772.

Return of WINDSOR on the
West side of Connecticut
River in the County of
Cumberland.”

The foregoing certificate of survey, through its reference to Zedekiah Stone, had the effect of tying up Colonel Nathan Stone's petition of 1772, with the application made in 1765 for a confirmatory patent for Windsor. It also remedied the defect noted in connection with the earlier application in the matter of the reservations for public uses. It is somewhat singular that the certificate should have contained the recital that the survey of 1772 was made for Zedekiah Stone when the papers otherwise showed that Zedekiah Stone had parted with all his interest in the township; but this peculiarity is not more remarkable than the locations selected by Surveyor-

General Colden for the public rights. Zadock Thompson observes in this connection that the original plan of Windsor "disappeared" and that in its place a new one was substituted "in which all the public rights are located on the most barren and inaccessible part of Ascutney mountain; . . ." ¹ This new plan is the one now preserved in the office of the town clerk of Windsor. It followed the survey of 1772 and the terms of the New York Patent which was presently issued. By these terms there was left for Colonel Nathan Stone and his associates the disposition of virtually all the meadows and tillable lands in the township to be divided between the New York capitalists and the Windsor settlers.

The expenses of securing the New York charter Colonel Stone arranged to finance through Mr. Henry Cruger, of New York, and Mr. Goldsbrow Banyar, of Albany, but mainly through the former. Henry Cruger was an eminent merchant, a trustee of King's College, a representative of New York City in the Assembly, and, from 1767 to 1773, a member of the Provincial Council. In search of health, he went to England in May, 1775, and never returned. He died in Bristol in 1780.² His will is one of the earliest if not the very first to be spread upon the Windsor town records.

Goldsbrow Banyar, a native of London, was born in 1724. Coming to America at the age of thirteen, he entered public office on attaining his majority. He served the Province of New York as Deputy Secretary of the Province, as Deputy Clerk of the Council, and as Deputy Clerk of the Supreme Court. Various other positions in the courts later fell into his lap. Like Henry Cruger, he was a trustee of King's College. At the outbreak of the Revolution he retired to Rhinebeck on the Hudson. After peace was restored he moved to Albany. He died in 1815, leaving a considerable fortune. He was rated as being possessed of sagacity and knowledge of the world.³

¹ *Thompson's Gazetteer of Vermont*, pp. 292-293.

² *7 Lond. Doc.*, 843.

³ *8 Lond. Doc.*, 188.

CHAPTER XXV

THE NEW YORK PATENT

IN some of the Vermont town histories the authors judiciously observe that the New York charters are too long to print, and accordingly omit them. In the main, the truth of such observations is not to be disputed: the New York charters are not only too long to print, but, for most of us, too long to read. Nevertheless, the writer of this history will set forth the New York charter of Windsor in its entirety, so that, if there shall chance to be a few who care for a real understanding of how such things were done in colonial days, there will be the opportunity to observe the text, the style, the sentiment, the scrupulous attention to detail. For such few persons, if any there be, a reading of the document may afford pleasure.

The original of the New York charter, engrossed on parchment, is in the custody of the Windsor town clerk. It bears date March 28, 1772, is recorded in the Secretary of State's Office in Albany, and in record book number four in the Town Clerk's Office in Windsor, and was printed in full in that valuable pamphlet entitled *Centennial Memorial of Windsor, Vermont*. Its text follows.

"GEORGE THE THIRD, By The Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth: To All to Whom These Presents Shall Come, Greeting.

"WHEREAS, our province of New York, in America, hath, ever since the grant thereof to James Duke of York, been abutted and bounded to the east in part by the west bank or side of Connecticut river; and, WHEREAS, of late years, great part of our said province lying to the westward of the same river, hath, nevertheless, been pretended to be granted by divers instruments under the great seal of the province of New Hampshire, as tho' the same lands had then belonged to and were within the bounds and limits of the said province of

New Hampshire, and within the powers and jurisdiction of the government thereof; and, WHEREAS, among others, the tract of land by these presents hereinafter granted, part of our said province of New York, as aforesaid, hath been so pretended to be granted and to be erected into a township of the said province of New Hampshire, by the name of Windsor; and, WHEREAS, our loving subjects, Zedekiah Stone, Nathan Stone, and David Stone the second, in behalf of themselves and twenty other persons, by their humble petition presented unto our trusty and well-beloved Cadwallader Colden, Esquire, our Lieutenant-Governor, and then our commander-in-chief of our said province of New York and read in our council for our said province of New York, on the twenty-ninth day of October, which was in the year of our Lord one thousand seven hundred and sixty-five, did set forth among other things, That there was a certain tract of land lying in our said province of New York, commonly called and known by the name of Windsor, a little more than six miles square, beginning at a black ash tree standing on the west bank of Connecticut river, marked with the figures two and three, and runs from thence west, sixteen degrees north, six miles; then north, six degrees east, six miles and fifty-six rods; then east, sixteen degrees south, six miles and a quarter, to a maple tree standing on the said bank of the said river, marked with the figures three and four; then down the said river to the tree first mentioned, bounding easterly on the said river southerly on a tract of land commonly called and known by the name of Weathersfield, westerly on a tract of land commonly called and known by the name of Reading, and northerly on a township known by the name of Hertford; That the petitioners and their associates held the same by the said pretended grant from the government of New Hampshire, and thinking their title good, settled about sixteen families thereon; That they were willing and desirous to secure their property, possessions and improvements, by holding the same under the government of our said province of New York, and make further settlements upon the said tract; and therefore the petitioners did, in behalf of themselves and their associates humbly pray that our said Lieutenant-Governor would be favorably pleased by our

Letters Patent to grant to the petitioners and their Associates, their heirs and assigns, the said tract of land containing upwards of 23,600 acres and that the same might be erected into a township, by the name of Windsor, and vested with the same powers and privileges as other towns in our said province of New York had and did enjoy. Which petition having been then referred to a committee of our council for our said province of New York, our same council did, afterwards, on the same day, in pursuance of the report of the said committee, humbly advise and consent that our said Lieut.-Governor, should, by our Letters Patent, grant to the said petitioners and their associates and their heirs, the tract of land aforesaid, under the Quit-rent, provisoes, limitations and restrictions prescribed by our royal institutions.

“AND, WHEREAS, the said Nathan Stone and our loving subject William Swan, in behalf of themselves and their associates, by their humble petition presented unto our trusty and well-beloved William Tryon, Esquire, our Captain-General and Governor-in-Chief in and over our said province of New York, and the territories depending thereon, in America, chancellor and vice-admiral of the same, and read in our council for our said province of New York, on the twenty-ninth day of January, now last past, writing the proceedings aforesaid, did set forth, among other things, in substance that, since the above proceedings, the several parties who were formerly associated with the petitioners, save Mary Stone, the wife of the petitioner Nathan Stone, had relinquished all their right, title and interest to the said lands, as by the instruments in writing presented with the said petition might appear, and that the petitioners and the persons named in the schedule to the said petition annexed were the only persons interested in the said lands; and therefore the petitioners did humbly pray that our Letters Patent so directed to issue, as aforesaid, might pass in the names of the petitioners and their associates, mentioned in the schedule aforesaid. On due consideration of which last recited petition our same council did humbly advise that, when our Letters Patent should issue for the said tract of land called Windsor, our said Captain-General

and Governor-in-chief should issue the same agreeable to the proceedings aforesaid, of the twenty-ninth day of October, 1765; but that, instead of the grantees therein mentioned or referred to, our said Letters Patent should issue in the names of the petitioners, the said Nathan Stone and William Swan, and of their associates named in the schedule to the last recited petition annexed, and that the several shares of the said tract of land which, by the pretended grant or charter from the government of New Hampshire, were intended for public uses, be granted in trust as follows—that is to say: one such share for the use of the Society for the propagation of the Gospel in foreign parts; a like share as a Glebe for the use of the minister of the Gospel in communion of the Church of England, as by law established, for the time being, residing on the premises; a like share for the first settled minister of the Gospel in the said town, and one hundred acres for the use of the school-master residing on the premises; That the share of the said tract of land formerly allotted to Benning Wentworth, Esquire, should remain vested in us, and that the whole of the said tract of land should be erected into a township by the name of Windsor, with the usual privileges.

“IN PURSUANCE WHEREOF, and in obedience to our said royal instructions, our commissioners appointed for the setting out all lands to be granted within our said province of New York, have set out for the said Nathan Stone and William Swan and for their associates named in the schedule aforesaid, to wit:—Waldron Blaau, John Abeel, William Puntine, Michael Nan, John McGinnis, Richard McGinnis, Robert McGinnis, Patrick Walsh, James Abeel, Edward McColom, Marinus Low, Edward Patten, Andries Riegler, George Klein, Thomas Lupton, Duncan Robertson, Samuel Stevens, John Pesinger, George Lucam, Francis Groome, and James Cobham, ALL THAT certain tract or parcel of land known by the name of Windsor, situate, lying and being on the west side of Connecticut river, in the County of Cumberland, within our province of New York, beginning on the west bank of the said river, at the distance of five hundred and six chains and twenty links south from the south bounds of the township

of Hertford. This tract runs from the said place of beginning, north 74 degrees, west 480 chains; then north, six degrees east, 494 chains; then, south 74 degrees, east along the said south bounds of Hertford to Connecticut river; then down along the west bank of the said river, as it winds and turns, to the place where this tract began, containing 24,500 acres of land and the usual allowance for highways, and containing, exclusive of the five several lots or parcels of land hereinafter described, 23,000 acres of land and the usual allowance for highways; one of which said five lots or parcels of land distinguished by the name of the First Lot, is to remain vested in us, and is bounded as follows, that is to say: BEGINNING on the west bank of the Connecticut river, at the south-east corner of the above mentioned larger tract, of which this first lot is a part, and runs thence along the south bounds of the said larger tract, north 74 degrees, west 136 chains; then north, 16 degrees east, 40 chains; then, south 74 degrees, east to Connecticut river; and then down the west bank of said river, as it winds and turns, to the place where this first lot began, containing 500 acres of land and the usual allowance for highways. And, also, our said commissioners have set out to be granted in trust for the uses and purposes hereinafter mentioned, the following four lots of land, parts and parcels of the said larger tract so set out as aforesaid, that is to say: For the use of the Incorporated Society for the propagation of the Gospel in foreign parts, all that certain lot or parcel of land distinguished by the name of the Second Lot and which begins in the south bounds of the above mentioned larger tract, at the south-west corner of the said first lot and runs thence along the said south bounds, north 74 degrees, west 79 chains; then north, 16 degrees east, 40 chains; then, south 74 degrees, east 79 chains, to the said first lot, and then along the west bounds of the said first lot south, 16 degrees west, 40 chains, to the place where this second lot began, containing 300 acres of land and the usual allowance for highways. For a Glebe for the use of the minister of the Gospel in communion of the Church of England, as by law established for the time being, residing on the said larger tract, all that certain lot or parcel of land distinguished by the name

of the Third Lot, and which begins in the south bounds of the said larger tract at the south-west corner of the said second lot, and runs thence along the said south bounds, north 74 degrees, west 70 chains; then north, 16 degrees east, 45 chains; then south 74 degrees, east 70 chains, to the fourth lot hereinafter described, and then along part of the west bounds of the said fourth lot and the west bounds of the said second lot south, 16 degrees west, 45 chains, to the place where this third lot began, containing 300 acres of land and the usual allowance for highways. For the use of a school-master residing on the said larger tract, all that certain lot or parcel of land distinguished by the name of the Fourth Lot, and which begins at the north-west corner of the said second lot and runs thence along the north bounds of the said second lot, south 74 degrees, east 79 chains, to the fifth lot, hereinafter described; then along the west bounds of the said fifth lot north, 16 degrees east, 13 chains and 40 links; then, north 74 degrees, west 79 chains; and then south, 16 degrees west, 13 chains and 40 links, to the place where this fourth lot began, containing 100 acres of land and the usual allowance for highways. And for the first settled minister of the Gospel on the said larger tract, all that certain lot or parcel of land distinguished by the name of the Fifth Lot, and which begins at the north-west corner of the said first lot, and runs thence along the north bounds of the said first lot, south 74 degrees, east 63 chains; then north, 16 degrees east, 50 chains; then, north 74 degrees, west 63 chains; and then south, 16 degrees west, 50 chains, to the place where this fifth lot began, containing 300 acres of land and the usual allowance for highways. And in setting out the said larger tract and the several lots and parcels of land last described, our said commissioners have had regard to the profitable and unprofitable acres, and have taken care that the length of any of them doth not extend along the banks of any river, otherwise than is conformable to our said royal instructions, as by a certificate thereof under their hands, bearing date the twentieth day of this instant month of March, and entered on record in our Secretary's office for our said province of New York, may more fully appear; which said tract of 24,500 acres of land and the usual allowance for high-

ways so set out as aforesaid, according to our said royal instructions we being willing to grant to the said Nathan Stone and William Swan, and the other persons mentioned in the schedule aforesaid, their heirs and assigns forever, (except as hereinafter described) with the usual powers and privileges, and to and upon the several and respective use and uses, trusts, intents and purposes, limitations and appointments, and under the several resolutions, exceptions, provisions, and conditions hereinafter expressed, limited, declared and appointed of and concerning the same and every part and parcel thereof respectively.

“KNOW YE that of our especial Grace, certain knowledge and meer motion, we have given, granted, ratified and confirmed, and do by these presents for us, our heirs, and successors, give, grant, ratify and confirm unto them, the said Nathan Stone, William Swan, Waldron Blaau, John Abeel, William Puntine, Michael Nan, John McGinnis, Richard McGinnis, Robert McGinnis, Patrick Walsh, James Abeel, Edward McCollom, Marinus Low, Edward Patten, Andries Riegler, George Klein, Thomas Lupton, Duncan Robertson, Samuel Stevens, John Pesinger, George Lucam, Francis Groome and James Cobham, their heirs and assigns forever, all that the aforesaid large tract or parcel of land set out, abutted, bounded and described by our said commissioners in manner and form as above mentioned, (except thereout as hereafter is excepted) and including all those, the above mentioned several smaller tracts or lots of land, severally and respectively set out by our said commissioners, as parts and parcels of the same large tract, for the use of the Incorporated Society for the propagation of the Gospel in foreign parts; for a Glebe, for the use of the minister of the Gospel in communion of the Church of England as by law established; for the first settled minister of the Gospel on the said larger tract; and for the use of a school-master residing on the said larger tract, together with all and singular the tenements, hereditaments, emoluments and appurtenances to the same and every part and parcel thereof belonging or appertaining; and, also, all our estate, right, title, interest, possession, claim, and demand

whatsoever of, in and to the same lands and premises hereby granted, and every part and parcel thereof; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof; except, and always reserved out of this our present grant unto us, our heirs and successors, forever, all that the aforesaid certain lot or parcel of land containing 500 acres, with the usual allowance for highways, hereinbefore mentioned, to be set apart and remain vested in us, abutted, bounded and described as aforesaid, and distinguished by the name of the First Lot, as aforesaid, together with all and every the appurtenances thereunto belonging, the same lot being included within the bounds and limits of the larger tract of 24,500 acres of land hereinbefore described, and within the township by these presents hereinafter constituted; and also, except and always reserved out of this our present grant, unto us, our heirs and successors, forever, all mines of gold and silver; and also, all white or other sorts of pine trees fit for masts, of the growth of twenty-four inches in diameter and upwards, at twelve inches from the earth, for masts for the royal navy of us, our heirs and successors.

“TO HAVE AND TO HOLD all and singular the said lands, tenements, hereditaments, and premises, by these presents granted, ratified and confirmed, and every part and parcel thereof, with their and every of their appurtenances (except as is hereinbefore excepted) unto them, our grantees above named, their heirs and assigns forever; to, for and upon the several and respective use and uses, trusts, intents and purposes hereafter expressed, limited, declared and appointed of and concerning the same, and every part and parcel thereof respectively, and to and for no other use or uses, intent or purpose whatsoever; that is to say, as for and concerning all that the beforementioned small tract, lot or parcel of land so set out for the incorporated Society for the propagation of the Gospel in foreign parts, as aforesaid, being part and parcel of the said tract of land and premises hereby granted, ratified and confirmed, and within the township, by these presents hereinafter constituted, and every part and parcel of the same lot of land

with the appurtenances to the same belonging, (except as is hereinbefore excepted) to and for the only proper and separate use and behoof of the Society for the propagation of the Gospel in foreign parts above mentioned, and their successors forever, and to and for no other use or uses, intent or purpose whatsoever; and as for and concerning all that the beforementioned small tract, lot or parcel of land so set out as and for a Glebe, for the use of a minister of the Gospel in communion of the Church of England as by law established, being part and parcel of the said tract of land and premises hereby granted, ratified and confirmed, and within the township by these presents hereinafter constituted, and every part and parcel of the same lot of land with the appurtenances to the same belonging, (except as in hereinbefore excepted) in trust as and for a Glebe forever, to and for the only proper and separate use, benefit and behoof of the first minister of the Gospel in communion of the Church of England, as by law established, having the the care of souls and residing on the said tract of land hereby granted, and his successors forever, ministers as aforesaid, for the time being, residing as aforesaid, and to and for no other use or uses, intent or purpose whatsoever; and as for and concerning all that the beforementioned small tract, lot or parcel of land so set out for the first settled minister on the said tract of land hereby granted, the same lot or parcel of land being part and parcel of the same tract hereby granted, ratified and confirmed, and within the township, by these presents hereinafter constituted, and every part and parcel of the same lot of land with the appurtenances to the same belonging, (except as is hereinbefore excepted) in trust, to and for the sole, proper and separate use, benefit and behoof of the first settled minister of the Gospel that shall be settled and officiating on the said tract of land hereby granted, his heirs and assigns forever; and in trust, also, that our said grantees, their heirs or assigns, shall well and truly, by good and sufficient assurances in the law, convey the same last mentioned small tract or lot of land, with the appurtenances, to such minister of the Gospel as shall be first settled and officiating as aforesaid, his heirs and assigns forever, in fee simple, as soon as may be after such minister shall be settled and officiating as afore-

said, and to and for no other use or uses, intent or purpose whatsoever; and as for and concerning all that other small tract, lot or parcel of land so set out for the use of a school-master, being also part and parcel of the said tract of land and premises hereby granted, ratified and confirmed, and within the township by these presents hereinafter constituted, and every part and parcel of the same lot of land with the appurtenances to the same belonging, (except as is hereinbefore excepted) in trust, forever, to and for the sole and separate use, benefit and behoof of the first public school-master of the township by these presents hereinafter constituted and erected, officiating and resident in the same township and his successors, school-masters as aforesaid, forever, and to and for no other use or uses, intent or purpose whatsoever; and as for and concerning all the rest, residue and remainder of the said tract of land, tenements, hereditaments and premises hereby granted, ratified and confirmed;

“TO HAVE AND TO HOLD, one full and equal three-and-twentieth part (the whole into twenty-three equal parts to be divided) of the said rest, residue and remainder, and every part and parcel thereof, with all and every the appurtenances to the same belonging or in any wise appertaining, (except as is hereinbefore excepted) unto each of them, the said Nathan Stone, William Swan, Waldron Blaau, John Abeel, William Puntine, Michael Nan, John McGinnis, Richard McGinnis, Robert McGinnis, Patrick Walsh, James Abeel, Edward McCollom, Marinus Low, Edward Patten, Andries Riegler, George Klein, Thomas Lupton, Duncan Robertson, Samuel Stevens, John Pesinger, George Lucam, Francis Groome, and James Cobham, their heirs and assigns respectively, to their only proper and separate use and behoof respectively forever, as tenants in common, and not as joint tenants, and to and for no other use or uses, intent or purpose whatsoever, all and singular the said tract of land and premises hereby granted, and every part and parcel thereof, to be holden of us, our heirs, and successors in free and common socage as of our manor of East Greenwich, in our County of Kent, within our Kingdom of Great Britain, yielding, rendering and paying therefor yearly, and every year

forever, unto us, our heirs, and successors, at our Custom House in our city of New York, in our said province of New York, unto our or their Collector or Receiver-General, then for the time being, on the Feast of the Annunciation of the Blessed Virgin Mary, commonly called Lady Day, the yearly rent of two shillings and six pence sterling for each and every hundred acres of the above granted lands, and so in proportion for any lesser quantity thereof, saving and except for such parts of the said lands allowed for highways, as above mentioned, in lieu and stead of all other rents, services, dues, duties and demands whatsoever, for the hereby granted lands and premises, or any part thereof; and we do of our especial grace and certain knowledge and meer motion create, erect and constitute, the said large tract of land containing 24,500 acres of land hereinbefore mentioned, and every part and parcel thereof a township forever, hereafter to be, continue and remain, and by the name of WINDSOR, forever and hereafter to be called and known; and for the better and more easily carrying on and managing the public affairs and business of the said township, our royal will and pleasure is, and we do hereby for us, our heirs and successors, give and grant to the inhabitants of the said township, all the powers, authorities, privileges, and advantages heretofore given and granted to, or legally enjoyed by all, any or either our other townships, within our said province of New York; and we also ordain and establish, that there shall be forever, hereafter in the said township, two assessors, one treasurer, two overseers of the highway, two overseers of the poor, one collector, and four constables, elected and chosen out of the inhabitants of the said township yearly, and every year on the third Tuesday in May, at the most public place in the said township, by the majority of the freeholders thereof then and there met, and assembled for that purpose, hereby declaring that wheresoever the first election in the said township shall be held, the future elections shall forever thereafter be held in the same place as near as may be, and giving and granting to the said officers so chosen, power and authority to exercise their said several and respective offices during one whole year from such election, and until others are legally chosen and elected in their room and stead, as fully and amply as any the

like officers have or legally may use or exercise their offices in our said province of New York. And in case any or either of the said officers of the said township should die or remove from the said township before the time of their annual service shall be expired, or refuse to act in the offices for which they shall respectively be chosen, then our royal will and pleasure further is, and we do hereby direct, ordain and require the freeholders of the said township to meet at the place where the annual election shall be held for the said township and choose other or others of the said inhabitants of the said township in the place and stead of him or them so dying, removing or refusing to act within forty days next after such contingency. And to prevent any undue election in this case, we do hereby ordain and require that upon every vacancy in the office of assessors, the treasurer, and in either of the other offices, the assessors of the said township shall, within ten days next after any such vacancy first happens, appoint the day for such election, and give public notice thereof in writing, under his or their hands, by affixing such notice on the church door or other most public place in the said township, at the least ten days before the day appointed for such election; and in default thereof, we do hereby require the officer or officers of the said township, or the survivors of them, who, in the order they are hereinbefore mentioned, shall next succeed him or them so making default, within ten days next after such default, to appoint the day for such election and give notice thereof as aforesaid, hereby giving and granting that such person or persons as shall be so chosen by the majority of such of the freeholders of the said township as shall meet in manner hereby directed shall have, hold, exercise, and enjoy the office or offices to which he or they shall be so elected and chosen, from the time of such election until the third Tuesday in May then next following, and until other or others be legally chosen in his or their place and stead, as fully as the person or persons in whose place he or they shall be chosen, might or could have done by virtue of these presents. And we do hereby will and direct that this method shall forever hereafter be used for the filling up of all vacancies that shall happen in any or either of the said offices, between the annual elections above directed;

PROVIDED, always, and upon condition nevertheless, that if our said grantees, their heirs or assigns, or some or one of them, shall not, within three years next after the date of this, our present grant, settle on the said tract of land hereby granted, so many families as shall amount to one family for every thousand acres of the same tract; or if they, our said grantees, or one of them, their or one of their heirs or assigns, shall not also, within three years, to be computed as aforesaid, plant and effectually cultivate at the least three acres for every fifty acres of such of the hereby granted lands as are capable of cultivation; or, if they, our said grantees, or any of them their or any of their heirs or assigns, or any other person or persons by their or any of their privity, consent or procurement, shall fell, cut down, or otherwise destroy any of the pine trees by these presents reserved to us, our heirs and successors, or hereby intended so to be without the Royal License of us, our heirs or successors, for so doing first had and obtained, that then and in any of these cases this our present grant and everything therein contained shall cease and be absolutely void, and the lands and premises hereby granted shall revert to and rest in us, our heirs and successors, as if this our present grant had not been made, anything hereinbefore contained to the contrary in any wise notwithstanding. PROVIDED, further, and upon condition also, nevertheless, and we do hereby for us, our heirs and successors, direct and appoint that this our present grant shall be registered and entered on record within six months from the date thereof, in our said Secretary's office, in our city of New York, in our said province of New York, in one of the books of patents there remaining, and that a Docquet thereof shall be also entered in our Auditor's office there, for our said province of New York, and that in default thereof, this our present grant shall be void and of none effect, anything before in these presents contained to the contrary thereof in any wise notwithstanding. And we do, moreover, of our especial grace, certain knowledge, and meer motion, consent and agree, that this our present grant being registered, recorded and a Docquet thereof made as before directed and appointed, shall be good and effectual in the law to all intents, constructions and purposes whatsoever, against us, our heirs and successors, notwith-

standing any miswriting, misbounding, misnaming, or other imperfection or omission of, in or in any wise concerning the above granted or hereby mentioned or intended to be granted lands, tenements, hereditaments, and premises, or any part thereof.

IN TESTIMONY WHEREOF, we have caused these our letters to be made patent, and the great seal of our said province of New York, to be hereunto affixed. WITNESS, our said trusty and well beloved WILLIAM TRYON, ESQUIRE, our said Captain-General and Governor-in-Chief in and over our said province of New York, and the territories depending thereon in America, Chancellor and Vice-Admiral of the same, at our fort, in our city of New York, the twenty-eighth day of March, in the year of our Lord one thousand seven hundred and seventy-two, and of our reign the twelfth.

First skin, line 28, the words "eighty chains; then north, six degrees east, four hundred and," and line forty-six the word "so," interlined; and second skin, line five, the word "before" wrote on Razure, and line nine, the words "for the time being residing as aforesaid," interlined.

SEAL OF
THE PROVINCE OF NEW YORK

(Signed) CLARKE.

WM. TRYON."

The original of the New York charter of Windsor bears the following endorsements on the back:

"28th March, 1772.

Letters Patent to Nathan Stone and twenty-two other persons for twenty-four thousand acres of land in the County of Cumberland and erecting the same together with five hundred acres reserved to the Crown, into a township by the name of Windsor."

"New York Secretary's Office, 1st April, 1772.

The within Letters Patent are recorded in this office in Lib. Patents, No. 16, page 166, &c.

Gw. Banyar, D. Sec'ry."

"New York Auditor-General's Office, 2nd April, 1772.

"The within Letters Patent are Docquetted in this office.

Gw. Banyar, Dep'y, Aud'r."

"Town Clerk's Office, March 3d A.D. 1788.

"Rec'd this Charter to record and recorded the same in Windsor Records for Deeds, Lib. No. 4, page 1, 2, 3 and 6.

Attest, B. Brown, T. Clerk."

With the title to Windsor thus vested in Colonel Nathan Stone and his twenty-two associates,¹ a deed bearing date the 31st day of March, 1772,² was executed by the twenty-two in favor of Colonel Stone. This deed was probably delivered to him simultaneously with his delivery of his own deeds in favor of Henry Cruger and Goldsbrow Banyar, dated, respectively, April 8 and 18.

The land sold to Cruger is stated to be three thousand acres, or about one-eighth of the entire township. It comprised a tract approximately rectangular in shape, bounded on the north by the Hartland town line, and extending south nearly one mile and a half. Its eastern boundary was a straight line about one mile and a half west from the Connecticut River: its western boundary a straight line about two miles easterly from the eastern boundary of Reading. The southern boundary was parallel to the northern.

The land sold to Banyar was also approximately rectangular, comprised eleven hundred acres, was bounded on the north by Hartland, on the east by the Cruger tract, on the west by Reading, and on the south by a straight line parallel to and about three-quarters of a mile south of the Hartland town line.

Colonel Stone was also required to advertise in a New York City newspaper for all claimants to Windsor township under the Benning Wentworth charter. His advertisement appeared in Hugh Gainé's *New York Gazette and Weekly Mercury* for April 13, 20, and 27, and May 4, 1772, and reads as follows:

¹ The names of Adam Van Denbergh, Jr., and Henry Tiers, who had been designated as two of the grantees, were dropped.

² *Windsor Deeds*, vol. 1, p. 337. *Deed Book* 19, page 106, in New York secretary of state's office, where at the foot of the record is this significant line: "I do allow the same to be recorded. Henry Cruger."

WINDSOR

Whereas his Majesty by his Letters Patent under the Great Seal of the Province of New York, hath granted to certain persons therein named, all that certain Tract or Parcel of Land known by the name of Windsor, situate, lying and being on the West Side of Connecticut River, in the County of Cumberland, within the Province of New York, beginning on the West Bank of the said River, at the Distance of 506 Chains and 20 Links South from the South Bounds of a Tract of Land known by the Name of Hertford; and this Tract runs from the said Place of beginning, North 74 Degrees West, 480 Chains; then North 6 Degrees East, 494 Chains; then South 74 Degrees East, along the said South Bounds of Hertford to Connecticut River; then down along the West Bank of the said River as it winds and turns to the Place where this Tract began, containing (inclusive of a certain Lot of five hundred Acres reserved to his Majesty, and of certain Lots therein granted for public Uses) 23,000 Acres of Land, and the usual Allowance for Highways, and hath erected the same into a Township by the Name of Windsor; and whereas a Grant of the same Tract of Land was heretofore pretended to be made by a certain Instrument under the Great Seal of the Province of New Hampshire, unto Samuel Ashly [here follow the names of the original New Hampshire grantees] and to be erected into a Township of that Province by the Name of Windsor; and whereas it is intended that all Persons interested in any of the said Lands under the said pretended Grant (except as is hereinafter excepted) should, upon the Terms and under the Provisoos hereinafter mentioned, be enabled to obtain a good Title to their several Shares and Interest therein, under the Grant thereof issued under the Great Seal of the Province of New York; public Notice is therefore hereby given to all the Persons above named, to whom the said pretended grant was originally made, as aforesaid, and to all other Persons respectively possessed of, or interested in any of the said Lands, by, from, or under any of them, that all and singular their several Interests respectively in the said Tract of Land under the said pretended grant shall be confirmed to them

respectively under the Grant thereof, made as aforesaid, under the Great Seal of the Province of New York (except the Share formerly reserved to Benning Wentworth, Esq.; containing the five hundred Acres reserved for his Majesty, as aforesaid) provided they apply for the same respectively, to the Subscriber Nathan Stone, of the said Township of Windsor, Esq; within one year after this Notification, paying unto him their respective Proportions of all Fees, Charges and Disbursements, with the lawful Interest thereof, which hath or shall arise, or grow due by Reason of the issuing out the said Letters Patent; together with the Costs and Charges of the Deeds and Conveyances to be made to them respectively.

New York, 13th

April, 1772.

NATHAN STONE.

Having completed his advertising and having obtained sole title to the township except for the Cruger and Banyar tracts and the reserved lands, Colonel Stone remained in New York long enough to have sold several parcels of Windsor property to Thomas Pearsall, Joseph Bull, and Stephen Ward of New York. The properties bought by these men were in the southerly or southwesterly part of the township, not far from the lands reserved for the public rights, and if selected by the purchasers as their choice of what was valuable, showed ignorance or poor judgment on the part of the buyers. Possibly the same adroitness which Colonel Stone displayed in having the public rights located on the inaccessible parts of Ascutney Mountain may have again been called into play when New York City investors undertook to transact business with him. Of this wild land Pearsall purchased one thousand acres, while Bull and Ward together purchased five hundred. Adding to these purchases the forty-one hundred acres acquired by Cruger and Banyar, it will be found that Colonel Stone, before leaving New York City, had reduced the common property of the town by fifty-six hundred acres.

During at least a part of Colonel Stone's sojourn in New York he had the company of a no less interesting fellow-townsmen than Captain William Dean. It may be doubted whether Captain Dean participated in any of Colonel Stone's

direct negotiations with the New York Provincial Government, but he was active in finding buyers for Windsor lands. Besides securing a customer in Joseph Bull, he began what led to considerable dealings in Windsor realty with Ennis Graham. The latter was a New York tailor, haberdasher, and importer who speculated freely in lands on the New Hampshire Grants and became a large land-owner in Windsor. Since for some time Graham was the defendant in a crown prosecution in New York, one wonders whether Captain Dean had formed this acquaintance during his term of imprisonment in the "new gaol."

On returning to Windsor with his New York Charter and the sole title to all the Windsor land, excepting the reservations and the lands that he had sold, Colonel Stone proceeded to apportion the balance among the respective claimants. Other than the deeds themselves, virtually no account of his procedure remains. The *Windsor County History* (p. 286) states that the deeds to the respective claimants bear date of November, 1772. This was not uniformly the case, although true in the majority of instances. The authority last mentioned names the following as Colonel Stone's grantees:

Caleb Benjamin	Phinehas Dean	Nathan Atkins
Jeremiah Bishop	Benjamin Wait	Joseph Patterson
Samuel Patrick	Ebenezer Hoisington	Thomas Cooper
Joseph Woodruff	William Dean	John Chandler
Benjamin Bishop	Elnathan Strong	Andrew Norton
Levi Stevens	Hezekiah Thomson	Alexander Parmelee
Samuel Seers	Benjamin Spalding	Steel Smith
Peter Leavens	Elisha Hawley, Jr.	Mary Hubbard
Isaiah Burk	Timothy Stanley	Elisha Hubbard
Ebenezer Curtis	Thomas Wilson	David Cook
Solomon Burk	Elisha Hawley, Sr.	Samuel Cook
Samuel Root	Asa Smead	Samuel Stone
Watts Hubbard	Ebenezer Davis	David Hall
George Stow	Elihu Burk	Elizabeth Curtis
Andrew Blunt	Nehemiah Lincoln	Solomon Emmons
Lazarus Bannister	William Smead, Sr.	Ebenezer Howard
John Benjamin	William Smead, Jr.	Fisher Gay
Samuel Chase	Joseph Barrett	Joseph Bull

James Wellman	Jacob Hastings	Thomas Pearsall
Dudley Chase	Asaph Butler	Goldsbrow Banyar
Henry Cruger	Nathan Stone	Isabel Patrick
David Taylor	Willard Dean	Zedekiah Stone
	Barnabas Dunham	

How nearly complete this list may be we have not determined nor have we ascertained how it was compiled. Obviously it should not have included Cruger, Banyar, Pearsall, or Bull, who had received their deeds before Colonel Stone reached Windsor. If we are not mistaken, the list also includes a few whose deeds were made subsequent to November, 1772, and several who never became Windsor residents. All told, these deeds did not dispose of all the Windsor lands, for Colonel Stone continued for some years after 1772 to convey property by the same form of deed that he used for the original distribution of November, 1772, thus indicating either that certain claimants delayed the prosecution of their claims or that he was authorized to hold and from time to time to sell to new arrivals the unclaimed common lands.¹ It was a matter of nearly twenty years before Colonel Stone was called on to make conveyance of the lands chosen in the east and west parts of the township for burying grounds and sites for meeting-houses.

It naturally happened that in the large acreage sold to Cruger was land which formerly had been occupied by Windsor settlers. This difficulty the settlers generally adjusted by accepting conveyances of other land by way of substitution. In one instance only did a settler seriously object. That was the case of Joel Smead, who, some sixteen years later, claimed title to lands within the Cruger tract that formerly were claimed by William Smead, senior. It is perhaps fortunate that this claim was pressed to the necessity of an action of ejectment because by the decision of the court the legality of the New York titles was definitely established, and in the report of that case we have an early and authoritative statement of the whole subject of Windsor titles under both the

¹ Many of Colonel Stone's deeds were witnessed and probably drawn by Francis Beatty, who in 1784 described himself as a resident of Claremont and a Loyalist.

New Hampshire and New York charters or patents. At the risk of departing from strict chronological order, we may profitably take up the report of that case at the present stage of the narrative.

From Henry Cruger's executors, who had a power of sale under their testator's will, Elijah Paine, of Windsor, and Lewis Richard Morris, of Springfield, had bought one hundred acres within the Cruger tract. On the land so purchased they found Joel Smead claiming to be the owner as heir of his father, William Smead, senior, who had drawn the land by lot as owner of a proprietary right bought from an original grantee named in the Benning Wentworth charter of 1761. Messrs. Paine and Morris showed that William Smead, senior, in 1771 had joined in the power of attorney, authorizing Colonel Nathan Stone to secure a patent from New York, that the Benning Wentworth charter had been lawfully surrendered by Stone to the Province of New York, and that Stone had secured the New York patent in 1772, had acquired title to the whole of Windsor township, and had lawfully sold to Henry Cruger the whole of the Cruger tract in order to pay the cost of the New York patent fees. It also appeared that Colonel Stone had conveyed to William Smead, senior, an acreage in Windsor lands equivalent to what the latter had claimed under the Benning Wentworth charter, and that William Smead, senior, had accepted such conveyance in substitution for his original holdings. In charging the jury in that case, Chief Justice Nathaniel Chipman, with the concurrence of Judge Knight, commented thus on the transaction between Colonel Nathan Stone and the authorities of the New York Provincial Government:

"The plaintiff in this case relies that the New Hampshire charter of the town of Windsor was surrendered into the hands of the Governour of New York for the crown, and that the letters patent, issued in consequence, by that Governour, acting for the crown, and intended to operate by way of confirmation to the claimants under the former grant were good and valid. The act itself, by which the surrender was made, is not produced. The proof of a surrender of the New Hampshire

grant arises from the power given to Stone, the agent—from the recital contained in the letters patent from New York; . . . and from the acceptance and long acquiescence of the New Hampshire proprietors under this grant. It would seem that the acceptance and acquiescence alone, which must have involved almost the whole property of the land in the town, would be construed a waiver of the former grant and a confirmation of the latter. It may be further observed the original charter of New Hampshire has not been produced; and it is agreed that it was lodged in the office of the Secretary of the Province of New York previous to issuing these letters patent and that it remained in that office.¹

“The defendant in this action stands in the place of his father, William Smead, and his claim must be viewed in the same light. W. Smead, who claimed the premises under the grant of New Hampshire, was a proprietor of several rights or shares and was one of those who executed the power to Stone to procure a confirmation from the Governour of New York. It is evident that W. Smead accepted from Stone a title of lands in Windsor, . . . in full for his claim under the former grant;—in part, of the same lands which he formerly claimed, and in part, of other lands, the benefit of which he enjoyed and left to his heirs. For it will be observed that under the New York grant the whole property was vested in Stone, in trust, that he might convey to every one according to his right, and that the division which was made under the New Hampshire title was not then taken to have any legal efficacy, but served only for description. . . .

“The Governour of New York and the authority of that Province were guilty of the highest oppression and injustice towards the New Hampshire grantees. They held the titles derived through the Governour of New Hampshire to be void. They were able to enforce this opinion by violent laws and by the arbitrary decisions of their courts. In consequence of these measures they extorted large sums of money from the New Hampshire grantees and settlers for what they called a confirmation. This was practised upon the proprietors of Windsor. . . .”

¹ This is not the fact: a certified copy was filed instead of the original.

The court concluded the charge by stating that the high price charged by New York for the confirmation patent in no way invalidated the titles under that patent, and the jury brought in a verdict in favor of Messrs. Paine and Morris.¹

This decision of the Supreme Court of Vermont resulted in validating the titles under the New York confirmatory patents for all time.² It did not, however, settle the title to the five-hundred-acre Wentworth tract which, by the terms of the New York patent, was to remain vested in the Crown. Counting the *Dean Prosecutions* as the first, the case of *Paine and Morris v. Smead* is the second great judicial proceeding of Windsor origin that shaped the future of Vermont.

¹ N. Chipman's *Reports*, pp. 99, *et seq.*

² The manuscript records of the Cumberland County Courts show that Captain William Dean brought a similar ejectment suit against Zephaniah Spicer in 1772 and obtained a verdict in his favor in 1773.

CHAPTER XXVI

LAWFUL TOWN GOVERNMENT

THE news of Colonel Stone's success in securing a New York patent reached Windsor before his return. The town-meeting day of 1772 had come and gone and had been observed by the election of a new set of town officers. The meeting was held at Deacon Hezekiah Thomson's, where Esquire Israel Curtis presided. The officers elected were: David Stone, town clerk; Benjamin Wait, supervisor; Jonathan Burk, Hezekiah Thomson, and William Smead, overseers of the poor; David Stone, Thomas Cooper, and Jeremiah Bishop, trustees; Andrew Norton, Jeremiah Bishop, and John Benjamin, commissioners; John Benjamin, Benjamin Bishop, and Elisha Hubbard, constables; William Smead, Caleb Stone, Andrew Blunt, and William Dean, surveyors of highways; David Getchell and Steel Smith, tythingmen; Samuel Stone, key keeper; Benjamin Wait, John Smead, Samuel Patrick, and Solomon Burk, hog drivers; Elnathan Strong and Ebenezer Curtis, fence viewers. Except that it was voted to shut up the swine from April 1 to November 1, nothing else was done at this meeting.

The officers thus elected had been in office but a few weeks when the news of Colonel Stone's success in New York reached Windsor. By the terms of the New York patent the annual meeting of the town was to be held on the third Tuesday in May. It was fortunate that news of the granting of the New York patent came in season for such a meeting in 1772, because the "Districting Act," already referred to, had become a law, and it was therefore important that Windsor should promptly organize itself as a separate New York township with its own lawful town officers, to avoid the chance of being "districted" with other parts of Cumberland County. With this idea in mind, as well as the thought that a lawfully elected Windsor "supervisor" might vote in the coming county meeting on the question of removing the court house from Chester, the citizens of Windsor held the first lawful town meeting in

its history on May 19, 1772, being the fifth town meeting of which we have a record.

The record of this meeting follows:

"Att a Legal Meeting of the Freeholders and other inhabitants of the town of Windsor in the Government of New York and in the County of Cumberland held at the house of Steel Smith, Gent., on tuesday the Nineteenth day of May A. D. 1772.

Vot ^d Hezekiah Thomson	Moderator
Vot ^d Thomas Cooper	town Clerk
Vot ^d Israel Curtis Esq ^r	Supervisor
Vot ^d Benjamin Wait	} Assessors
Vot ^d Samuel Stone	
Vot ^d Elisha Hubbard	} Collectors
Benjamin Bishop	
Vot ^d Jeremiah Bishop	} Commissioners
John Benjamin	
Samuel Stone	
Vot ^d Jonathan Burk	} overseers of
Zedekiah Stone	
Vot ^d Ebenezer Curtis	} Fence Viewers
Jacob Hastings	
Vot ^d Caleb Stone	} Constables
Elisha Hubbard	
Benjamin Bishop	
Jacob Hastings	
Vot ^d William Smeed Jun ^r	} Surveyors
Caleb Stone	
Andrew Blunt	} of
Willard Dean	
Vot ^d David Gitchel	} Tything Men
Steel Smith	
Vot ^d Benjamin Wait	} Hog Drivers and
John Smeed	
Samuel Patrick	
Solomon Burk	
Voted Samuel Stone	Key Keeper
Voted to Dismiss this Meeting.	

Hez^h Thomson) Moderator."

It was becoming that the townspeople should give full representation to the Stone family in recognition of Colonel Nathan Stone's achievement in New York. The retirement of David Stone as town clerk in favor of Thomas Cooper, if surprising, was a great improvement in the matter of efficiency. At this meeting, as at most of those that followed, Colonel Stone himself was elected to no office, but his activities in straightening out the land titles and in apportioning the land under the new dispensation kept him fully occupied. For several years his position in the town as a public character was second to none.

That Colonel Stone has never been a figure of importance in the written history of Vermont is neither singular nor inexplicable. General Jacob Bayley, of Newbury, a much more important personage, is, after all, obscure in comparison with the Allens and their intimates, of whom, for whom, and by whom Vermont history has been written. Neither Bayley nor Stone was on good terms with the Allens. In the case of Colonel Stone, there were other reasons why his name was not held in respect by Vermont historians: he had become friendly for a second time with the officers of the New York government, he had acquired such influence and favor with them that his services were sought to secure New York patents for other towns, he did not join the "new state" movement and he gave positive offence to those who set up the new republic in Windsor in 1777. Whether he was suspected of being a Tory the writer cannot determine conclusively. He was a character of sufficient interest to make us wish that his correspondence might have been preserved. Although he and some of the other sons of Captain Zedekiah Stone had served with their father as soldiers of the King in the late war with France and had military experience sufficient to make them valuable to the Revolutionary cause, there is no evidence that their services were offered, except in the case of Samuel Stone, who enlisted as a private in Joab Hoisington's Rangers. On the contrary, Colonel Stone was at one time under military guard, as if he were charged with toryism.

But if one feels that Colonel Stone has not received the recognition due him in written Vermont history, it should be

pointed out that local traditions of Colonel Stone are equally lacking. Not only did no local story of Colonel Stone survive to the last quarter of the nineteenth century, but his name was virtually unknown among Windsor families of that period. From him and from his brothers we have no descendants living in Windsor. The present well-known Stone family of Windsor traces its ancestry not to any of the sons of Captain Zedekiah Stone, but to a nephew—Samuel Stone—who came to Windsor after the close of the American Revolution.

What has Windsor in the way of traditions or "stories" of the early settlers? Nothing much, save that Captain Steel Smith was the "first settler," cut down the "first tree" and built the "first frame dwelling." We remember to have heard that his son Samuel was the "first child born" in the town and that Captain William Dean's wife was the "first person to die" in Windsor. All these traditions are preserved mainly by word of mouth, not for their importance but because they touch a popular American weakness—the love of a record. "The first" to do this or that holds a "record." Beyond these interesting but small traditions there is scarcely a thing in the way of unwritten story of Windsor's early settlers. The writer remembers that his father had a story or two of Esquire Israel Curtis and one excellent but probably purely apocryphal yarn of Captain Steel Smith. Through descendants of Ebenezer Hoisington there have been preserved or partially preserved a few vague items; but of all the Windsor settlers prior to the Revolution not one left a local reputation that survived in popular remembrance.

The place of holding the meeting of May 19, 1772,—“at the house of Steel Smith”—it would be pleasant to determine. What seems reliable tradition is that the Evarts farmhouse, which stood on the rise of ground just north of the Pulk Hole Brook and west of the highway was built by Captain Steel Smith, and was the first or at least the oldest frame dwelling in Windsor. Whether it was built as early as May, 1772, the writer cannot positively say.

The "districting" of Cumberland County as performed by the county magistrates was not as serious as might have been

apprehended. The only towns which escaped altogether were, of course, those that had secured their confirmation charters from New York; but several of the others had the good fortune to be separately "districted" and experienced no inconvenience. The original notice of the districting and election order, signed on May 6, 1772, by Crean Brush, the newly appointed clerk of Cumberland County, was preserved among the "Pingry Papers," and is copied in full in B. H. Hall's *History of Eastern Vermont*, at pages 743 and 744. Pursuant to the terms of this notice, the town supervisors met at Chester on May 26 and voted to change the county seat to Westminster, on the Connecticut River. That meeting at Chester, to which Esquire Israel Curtis was Windsor's delegate, was the first that the writer has found where Cumberland County supervisors or delegates met officially for the transaction of county business.

Windsor was now fairly launched as a duly incorporated town, erected by lawful authority and possessed of lands by titles reasonably secure. Now began the construction of substantial dwellings which, one by one, replaced the log cabins. In the year 1772 the Cumberland County Court issued to men of Windsor three separate licenses for the sale of spirituous liquors, viz., to Caleb Stone as a retailer and to Benjamin Wait and Colonel Nathan Stone as tavern keepers. In the following year Hezekiah Thomson secured a tavern keeper's liquor license.

To this period belongs the erection of "The Old Constitution House" on the east side of the main or town street, just south of the lane which now leads to the railroad station. Now began, also, a larger immigration from Connecticut, Rhode Island, Massachusetts, and New Hampshire. The settlement of the question of land titles, as far as Windsor was concerned, gave assurance that the lawlessness which had been rife in Windsor but two years before, and which was still distracting the towns on the west side of the Green Mountains, had become in Windsor a thing of the past. There was a higher quit-rent to pay under the New York patent than had been reserved by the New Hampshire charter, and, if their wishes had been consulted, most of the people of Wind-

sor might have preferred to be a part of New Hampshire; but all in all they were probably pretty well content with their lot, except for the thought of having been forced to sell so much of the township to pay the New York charter fees.

Thus ends the first distinct period of Windsor's history. In that period Windsor had unconsciously become the historic town of Vermont. On Windsor soil had begun the official struggle for supremacy between New Hampshire and New York land titles. In Windsor and by a Windsor leader had been organized the first band of Green Mountain Boys to resist the authority of New York. It was fitting that within the next few years Windsor should become the birthplace of the new State of Vermont.

CHAPTER XXVII

A BREATHING SPACE

DURING the years from 1772 until the outbreak of the American Revolution the life of Windsor was one of comparative quiet. But the quiet was comparative only. The turmoil on the New Hampshire Grants to the west of the Green Mountains reached and maintained great heights during this period. These were the days of many of the hero tales of Vermont, with which we have become familiar through versions discreetly glossed for school and fireside uses. In this period no part of the American colonies could have been wholly unaware of the turbulence prevailing in Bennington and other towns to the north of Bennington, where such inspiring leaders as Ethan Allen and Seth Warner, by examples of violence and intimidation, were successfully rallying the settlers to break the authority of the Province of New York. In every settled township on the Grants themselves, even though located as was Windsor on the extreme eastern boundary, and even though its own land titles had been made secure through a confirmatory patent from the government of New York, it must have been possible to hear the reverberations and to feel the shock of the frequent clashes on the Grants to the westward.

While the people of Windsor were keenly alive to the struggle that was going on, it is not clear that their sympathies lay with the New England settlers. Into the disturbed region flocked from other provinces many of the ne'er-do-well and outlaw class,¹ who saw opportunity, and these undesirable characters most likely in some instances drifted again out of the range of local warfare into the more peaceful localities on the Grants and there exerted their baneful and disturbing influence. If one may judge the temper of the people of Windsor at this stage by the conduct of Colonel Nathan Stone, we should draw the inference that their desire was to uphold the authority of New York. For example, in the case of Benjamin

¹ *4 Doc. Hist.*, 535; *Memoirs of An American Lady* (1901 edition), vol. II, p. 198.

Spencer, who held title under New York in the township of Clarendon, and who more than once was the target for attack by Allen's regulators,¹ we find that Colonel Stone prepared and forwarded to the Provincial Council of New York by letter a report of the outrages. So important and informing was Colonel Stone's report that the Council ordered it transmitted to England.² In time, as we all know, the majority of the people of Windsor were won over to the insurgent cause and joined forces with their brethren on the west side of the Green Mountains in secession from New York, but at the time we are now discussing Windsor appears to have been not only submissive but loyal to the New York provincial authority.

Colonel Nathan Stone and Captain William Dean were among the Cumberland County characters who were most active in bringing about the removal of the county seat to the Connecticut Valley. This they accomplished over Judge Thomas Chandler's vigorous opposition. In vain Judge Chandler raised the very timely objection that the men of Windsor in the not remote past had earned a reputation for riotous behavior, and that it would be dangerous to move the court house nearer to them.³ Although his warning might justly have excited the retort that even Chester had proved itself an unsafe haven for the courts the subsequent occurrences at Putney, at Westminster, and at Windsor tended to show the wisdom of his suggestion.

In another county matter Colonel Stone also took the lead. Up to this time Cumberland County had had no representation in the New York provincial legislature. On a petition with Colonel Stone's name at the head of a list of signers which included Israel Curtis, Willard Dean, and one hundred and forty-eight other men of Cumberland County, the province law was promptly amended so as to give the county two representatives to the assembly.⁴ This action gave Colonel Stone an added reputation in the county and reflected honor upon his town. The success of his petition led to another effort of more practical importance, namely, the presentation of a petition subscribed by more than four hundred men of Cumberland and

¹ 4 *Doc. Hist.*, 520, 531.

² *N. Y. Council Minutes*, December 23, 1773.

³ B. H. Hall's *Eastern Vermont*, p. 181.

⁴ 4 *Doc. Hist.*, 495, 496.

Gloucester Counties asking that all the New Hampshire charters be confirmed by New York on payment of half the regular fees.¹

The latter petition contained the striking recital that "your petitioners are not desirous of any Change of Jurisdiction but are perfectly satisfied and earnestly wish to continue under the Government of New York." The petition was signed not only by inhabitants of towns which had not secured New York confirmation patents, but by inhabitants of towns whose charters had been confirmed. Among the Windsor supporters of this petition were Nathan Stone, Israel Curtis, William Dean, Willard Dean, William Dean, junior, Thomas Cooper, Joab Hoisington, Zedekiah Stone, Samuel Stone, David Stone, Benjamin Wait, Solomon Emmons, Elisha Hawley, Caleb Benjamin, William Smead, William Smead, junior, Ebenezer Curtis, Peter Leavens, Jacob Getchell, David Getchell, Watts Hubbard, Elisha Hubbard, Elnathan Strong, Benjamin Bishop, Jeremiah Bishop, Reuben Dean, Matthew Hammond, Solomon Burk, Isaiah Burk, Levi Stevens, Joseph Woodruff, and Francis Beatty. There are perhaps among the four hundred or more signers several other men who then lived in Windsor, but nowhere in the list appear the names of Ebenezer Hoisington, John Benjamin, Hezekiah Thomson, and Steel Smith. While it would not be safe to say that all the men of Windsor who omitted to sign the petition withheld their signatures through conscientious objection to subscribing to sentiments of allegiance to the Province of New York it is the fact that Ebenezer Hoisington soon was foremost for secession and that John Benjamin and Hezekiah Thomson were among the earliest to be appointed to office in the New State. The language of the petition obviously raised an issue which, while proving that the overwhelming majority in Windsor adhered warmly to New York, disclosed a small minority of the disaffected. The failure of the petition to obtain the desired charters doubtless helped to strengthen the minority party. The petition is undated but an affidavit attached thereto indicates that the petition was signed early in the year 1773 or late in the year 1772.

The notice of Windsor's town meeting to be held on the third

¹ *Id.*, 498-500.

Tuesday in May, 1773, set forth that the meeting would be held "at the Meeting house yard near the Mill." This is not only the first notice or warning that called for an open air meeting in Windsor, but it supplies the earliest reference to a meeting house in the town. An inference is fairly to be drawn that a yard had been set aside for a meeting house, but that the meeting house had not then been erected. The record of the meeting, however, leaves it unnecessary to rely solely on the notice since we find in the record of the meeting itself the following interesting items:

"Voted to build a Town-house twenty-four feet in width and thirty feet in Length—post to be twelve feet in Length.

"Voted to Raise twenty pound in order to build the above mentioned house."

In these votes were taken the initial steps to provide Windsor with its first "Town House" or "Meeting House" which was known by both names and which was used both for religious services and town meetings until 1798. The exact location of this poor but historically famous structure, described by Colonel John Andrew Graham as "a mean building and a disgrace to Windsor"¹ has not been exactly determined. The "meeting house yard" was "near the mill." The location of the "mill," or rather of the two mills, was on the Mill Brook by the main highway. The present "meeting house yard" is some three hundred yards away. While this might not to-day be called "near," it must be remembered that in a township containing thirty-six square miles and with perhaps only one building² then standing between the meeting-house yard and the mill it was natural enough to describe them as near each other. All the inhabitants of the town knew where the grist-mill and the saw-mill were. All may not have known where the spot selected for the meeting-house yard was. No meeting-house had been built: probably the yard had not fully been cleared of standing timber since it was not until five years later that the adjoining burying ground was "set out" to be fenced.

¹ J. A. Graham's *Hist. of Vt.*, 121.

² The shop of Reuben Dean, the silversmith.

It was important that the townsmen should see and determine for themselves on town meeting day the precise site for this contemplated public building. The wisdom of the language used in the notice is apparent.

The town house or meeting-house was built with sufficient promptness to permit the town meeting of May, 1774, to be held therein. The earliest reference to it as a meeting-house is found in Reverend James Wellman's Diary where he recorded his engagement on July 14, 1774: "to preach a Lecture at Mr. Eben^z Hoisington's—now desired to preach it in Windsor meeting-house at 3 o'clock, P.M." Its location, according to Ezra Hoyt Byington's *History of the First Congregational Church of Windsor*, was "a little south of the present meeting-house, near the corner of the cemetery." The same author describes the house as nearly square, with a pointed roof, and without a steeple. "That was," he says, "in the usual form of a Puritan meeting-house in Massachusetts and Connecticut in the early periods." He adds that it was provided with benches instead of pews and had a pulpit. He believed that it had a gallery and a seating capacity about one third that of the present Old South.¹ When the present Old South Church was built, in 1798, the old town house or meeting-house was demolished and its timbers and boards were used in the erection of a building which is now the ell of the present St. Paul's rectory.

That Mr. Byington was correct as to the absence of pews in the original meeting-house may be guessed from a vote in town meeting in May, 1775, "that no Person Shall build any Pew in the town house without the Consent of the town;" but it seems unlikely that a building with posts "twelve feet in length" would contain a gallery or that a "town house" would be equipped with a pulpit. It was perhaps in consequence of the erection of this building that eleven of Mr. Wellman's parishioners² sought and secured letters of dismission on April 3, 1774, from the "Church of Christ in Cornish and Windsor"

¹ *Hist. Cong. Church*, p. 11.

² Deacon Hezekiah and Hannah Thomson, Watts and Mary Hubbard, Ebenezer and Elizabeth Hoisington, Ebenezer and Martha Curtis, Andrew and Eunice Blunt, and Lois Smith.

with a view to joining with others in forming a church of their own in Windsor.

The town meeting of May 18, 1773, after convening at the meeting-house yard and choosing Israel Curtis as moderator, adjourned to the more convenient "house of En^s Steel Smith" where the rest of the business of the day was transacted and where the freemen could obtain such liquid refreshment and stimulant as would prosper their deliberations. Besides the election of town officers and the decision to build the town house they voted to divide the township into three highway surveyors' districts. One of these districts embraced the entire western half of the town: the other two, dividing at the road which led to the west part of the town, covered the eastern half. Except for the vote to raise twenty pounds to build the town house no town tax was voted in 1773. No tax whatever for town purposes was laid in 1772 or 1775 and only eighteen pounds in 1774. Of course there was the Cumberland County tax to be paid but that was imposed by province or county authority.

During this period the affairs of Cumberland County were administered by the elected supervisors of the towns and districts who met, first at Chester and later, after the change of the county seat, at Westminster. Windsor's supervisor for 1772 was Israel Curtis, for 1773 and 1774 Benjamin Wait, for 1775 Hezekiah Thomson. On the eve of the outbreak of the Revolution these meetings of the supervisors became "conventions" or "congresses" and the delegates instead of being town or district supervisors were "committee men" chosen usually from the local committees of safety. Together they constituted the Cumberland County Committee of Safety. Upon the Grants on the west side of the Green Mountains there was somewhat similar organization through conventions except that on the Grants west of the mountain range there had never been any county government through supervisors' meetings. Gloucester County, for a brief period, had a County Committee of Safety, while Bennington and perhaps a few other western Vermont towns were represented by delegates to the Albany Committee of Correspondence in 1775.

As the Revolution progressed the conventions or congresses

in Cumberland County, the Gloucester committee of safety and the conventions on the west side of the Green Mountains merged into the general conventions of the whole of the New Hampshire Grants, although even after such merger a few of the Cumberland County committeemen attempted for a time to maintain their separate organization.

CHAPTER XXVIII

THE EVE OF THE REVOLUTION

IT is not impossible but it is certainly not easy to obtain from the printed Vermont histories a coherent impression of the early conventions held by the settlers upon the New Hampshire Grants. Neither Samuel Williams nor Ira Allen made pretence of thoroughness in this field. The former either failed to appreciate or lacked knowledge of the first three of the conventions held in Cumberland County: the latter had little interest in events on the east side of the Green Mountains in which he was not personally a figure. The example of these two historians largely controlled future writers until Benjamin Homer Hall wrote his *History of Eastern Vermont*. Governor Hiland Hall, in his desire to counteract some of the propositions of Mr. B. H. Hall, almost ignored the early history of the east side of the State when he wrote his *Early Vermont History*. Again, in his chronological account of the Vermont conventions in the first volume of the *Vermont Historical Society's Collections*, Governor Hall seems to have been misled into omitting the early Cumberland County conventions on the theory that they were local instead of "general." The theory was sound enough but in applying it he failed to recognize the fact that several of what he termed "General Conventions" on the west side of the State were quite as local as the Cumberland County conventions.

Of all records of the early Vermont conventions the best and fullest are those collected by E. P. Walton in volumes I, II, and VIII of *Governor and Council*. Always partially under the thumb of Governor Hall, Mr. Walton consigned the early Cumberland County conventions to an appendix in the first volume instead of inserting them in their proper chronological place, but he at least had the independence to avoid his mentor's error of omitting them altogether. With this preliminary statement the writer will endeavor to deal chronologically with so much of the convention records as seems pertinent to the main purpose in hand.

Since the followers of Ethan Allen, though greatly influenced by their leader's pen, were preeminently men of action rather than of words the resolutions passed at their conventions on the west side of the Green Mountains had value chiefly in periodical advertisement of their grievances against New York. Of another character were those occasional resolutions or "decrees" which denounced as enemies those neighbors who should dare accept office from the Provincial government of New York or should seek to secure from that government confirmatory charters. Such announcements, coming from men ruthlessly and effectively engaged in burning or otherwise destroying the cabins and the goods of the families who had settled under claim of New York titles, amounted to intimidation of a very persuasive sort. Beatings and lashings administered to New York officials and others who, in the interests of New York titles, ventured upon the New Hampshire Grants west of the Green Mountains gave plenty of point to these edicts. Under such conditions, although the actual issue was merely one of land titles, there could be little concert of action on any subject between the people of this region and those in other parts of the Province and least of all with people at the seat of New York's government. Thus it happened that while the Liberty party or "Liberty Men" in New York City were organizing their committees of correspondence and taking other steps which were the preliminaries of the American Revolution the settlers on the Grants west of the Green Mountains were not called on to participate.

On the Grants east of the Green Mountains where the county supervisors of Cumberland and Gloucester were holding their orderly business meetings on county affairs the case was different. As early as the month of May, 1774, the supervisors of Cumberland County were asked by a letter from Isaac Low of the New York City "committee of correspondence" to ascertain from their constituents the sentiments of the county on the rights of the American colonies. Almost as if controlled by twentieth century Vermont practice in politics this enquiry elicited no immediate response. Perhaps through fear of being charged with treason, perhaps through suspicion of the motives of Isaac Low and his committee, perhaps through constitu-

tional reluctance to engage in letter writing, the Cumberland supervisors suppressed Mr. Low's letter. In spite of this, the fact that the letter had been received soon leaked out with the result that town meetings were held to choose delegates to meet in a county convention at Westminster on October 19, 1774. At this convention Low's letter was brought up and discussed and, in consequence, all the grievances against the British Parliament—the tax on tea, the Boston Port Bill, the Quebec Bill, and other measures which were believed detrimental to the interests of the American Colonies were aired then and there.

A fairly full report of the proceedings at this meeting or convention was made by the chairman, John Hazeltine of Townshend. It may be found in the first volume of *Governor and Council* at pages 317 to 319. An examination of this report shows the first reaction of the settlers on the New Hampshire Grants to the suggestion of Americanism. Pledging loyalty to King George the Third, the convention resolved to defend "our just rights as British subjects," to "assist the people of Boston" and to co-operate with the committee of correspondence already formed in New York City. As if in apology for some of their own conduct in the not remote past and possibly with reference to more recent performances by their brethren on the west side of the Green Mountains the members of the convention recorded a promise to "bear testimony against and discourage all riotous, tumultuous, and unnecessary mobs which tend to injure the persons or property of harmless individuals." If delegate John Grout, of Chester, twice a victim of mob violence, introduced a resolution on this subject he could hardly have been satisfied by such a qualified endorsement of his idea. The wording shows compromise: a *necessary* mob would always be within the bounds of propriety.

Eighteen men from twelve towns in Cumberland County constituted this first convention held on the New Hampshire Grants in the cause of American liberties. One of the delegates was the Windsor settler, Joab Hoisington, but it is more likely that he then appeared as a delegate from Woodstock than from Windsor since by this time he had become a property owner in the former town and had disposed of most if not all his Windsor

holdings. While Benjamin Wait was Windsor's supervisor for that year there is no evidence that he attended this convention or that any other delegate was specially chosen in Windsor for the purpose.

The Continental Congress had convened at Philadelphia in September. Directly after the first Cumberland County convention there arrived upon the Grants copies of the resolutions of the Continental Congress of October 14 and 20. Chairman John Hazeltine wisely deemed them of such importance as to require him to call a second convention at Westminster on November 30. How fully it was attended or what business was transacted cannot be ascertained from any known record made at the time. In an account written some months later it appears that all the proceedings and proposals of the Continental Congress were endorsed save one. The exception seems to have been that provision in the association of the confederated Colonies which called for the appointment of a committee of inspection in every town to observe the sentiments and conduct of the inhabitants on the subject of American liberties. This measure, because it was ridiculed by two prominent individuals of Tory leanings, the Cumberland delegates dared not ratify.¹

The third Cumberland County convention assembled at Westminster on February 7, 1775, and was in session three days. Although no list of the delegates was preserved there was found in the collection of historical treasures known as the *Pingry Papers* what purports to be a complete journal of the proceedings. This convention provided a pretty complete county organization for correspondence to co-operate with Isaac Low's committee in New York. For practically every town the convention appointed a committee-man. These committee-men constituted the standing county committee for correspondence of which the chairman was John Hazeltine. Benjamin Wait was Windsor's member. Joab Hoisington was Woodstock's.

More serious steps than the mere organization of a county committee of correspondence were discussed at this third Cumberland Convention. Somebody proposed the election

¹ 1 *Gov. & Coun.*, 321.

of "field officers." The measure was debated on the first day but was voted down. The convention adopted two rules for reconvening, viz., first, that on the call of three towns, Chairman Hazeltine should consider summoning the members for a convention and, second, that if five towns made a call he should immediately order a session. The convention also voted that in the absence of the clerk (Doctor Paul Spooner of Hertford) Doctor Solomon Harvey of Fulham (Dummerston) should exercise the clerk's duties. The convention thus approximated a provisional government or vigilance committee for the county. In an affidavit verified by Joseph Hancock under date of March 23, 1775, the deponent expressed his belief that Solomon Harvey, who had charge of issuing passes to those leaving or entering Westminster after the Court House riot on March 13, had been chosen a colonel at the recent convention and that a number of other officers had been elected at the same time.¹ Similarly, in an affidavit sworn to by John Griffin on March 27 or 28, is the statement that several of the court officers who were imprisoned by the mob at Westminster were admitted to bail on giving a bond to chairman John Hazeltine.² These items are quite persuasive to show that the third Westminster Convention was more than a debating society and that it had almost intended to usurp government even though the official record does not reveal such a plan.

To Mr. B. H. Hall we are indebted for still another important transaction at this third Cumberland County convention, viz., the approval of a petition addressed to Lieutenant-Governor Cadwallader Colden asking relief from the excessive burdens attendant upon maintaining the sessions of the courts at Westminster. The draughtsman of the petition was Charles Phelps, of Marlborough. Mr. Hall gives a summary of its contents at pages 207 to 209 of his *History of Eastern Vermont*. The encouragement of lawsuits, the inconvenience to the seventy or more farmers summoned in the panels of grand and petit jurors, the frequency of the judicial sessions, the excessive allowances of taxable costs and various other matters are set forth as grievances. Mr. Hall states that this petition received the approval of the convention but that through the delay of

¹ 4 *Doc. Hist.*, 547.

² 4 *Doc. Hist.*, 550.

the messengers to whom it was confided it failed to reach its destination until after the ugly affray known as the Westminster Massacre.

No record of similar conventions in Gloucester county at this period has come to light. The New Hampshire Grants west of the Green Mountains continued, as before, in the throes of their semi-warfare against the Province of New York and as late as January 31, 1775, had held a convention of their own and adopted a report or compact of great length and in minute detail on the subject of that grievance without even alluding to the great cause which had united the Colonies against Great Britain.¹ In vehemence and picturesqueness of expression that report is one of the most conspicuous outbursts of the period, but its chief importance lies in the fact that even at that critical moment in American history everything else was subordinated to the purely local question of land titles under the New Hampshire and New York Grants.

It would be a mistake to assume that the settlers on the Grants between the Connecticut River and the Green Mountains had become completely law-abiding and that lawlessness prevailed solely on the west side of the mountain range. The example of Colonel Nathan Stone's Windsor rioters in rescuing prisoners, attacking the sheriff and mobbing the court in the year 1770 had been followed in 1772 in Putney by a mob which took possession of cattle and other personal property that had been levied upon by the sheriff under a writ of execution.² At the same time there had been open threats of rescuing prisoners at the county jail.³ Again, in the autumn of 1774, a rough and lawless character who had been jailed at Westminster upon a charge of sedition or treason obtained his freedom at the hands of a mob.⁴ Contempt for law was rampant. Debtors were numerous and their disinclination or inability to pay their debts aroused an abundance of sympathy among the neighbors. Courts, as aids to the creditor class, were hated.

A contemporary but doubtless biased and extravagant account of conditions in Cumberland County says, probably with a bit of truth, "At this time there were tory parties form-

¹ 2 *Gov. & Coun.*, 489-497.

³ *Id.*, 462.

² 4 *Doc. Hist.*, 461.

⁴ B. H. Hall's *Eastern Vermont*, p. 202.

ing, although they were under disguise; and had laid a plan to bring the lower sort of people into a state of bondage and slavery. They saw that there was no cash stirring, and they took that opportunity to collect debts, knowing that men had no other way to pay them than by having their estates taken by execution and sold at vendue. There were but very few men among us that were able to buy; and those men were so disposed that they would take all the world into their own hands, without paying anything for it, if they could, by law; which would soon bring the whole country into a state of slavery.”¹ This passage, which was written by Doctor Reuben Jones, of Rockingham, emphasizes not unduly the general poverty and the dangerous accumulation of overdue debts. Such conditions are to be kept in mind if one is to understand rightly the course of events.

The calendar of the Court of Common Pleas for Cumberland County must have been full of actions for debt upon promissory notes and other contracts, actions of replevin and bills to foreclose mortgages. The debtors and their families were in despair as the March session drew near. The Court of Common Pleas, which never had been highly regarded, was then at the lowest point in popular esteem. Judge Samuel Wells, who though of tory principles was personally liked, was away in New York City attending to his duties as assemblyman for the county. Of Judges Chandler and Lord we need not repeat what has already been said. A fourth judge, in the person of Noah Sabin, had been appointed. His stiff, uncompromising disposition and his ambition as a new broom to make a clean sweep of the calendar made him as disliked as any of his colleagues. William Paterson, an Irishman, who had succeeded Daniel Whipple as sheriff, was an unfit character for the post; while Samuel Gale, who had replaced the rascally Irishman, Crean Brush, as county clerk, was an Englishman and therefore a “foreigner.” That these “foreigners”—men not born in the Colonies—were appointed to the court offices was galling to the harrassed yeomen of Cumberland County. This point the settlers frequently featured in later statements of their complaints.

¹ 1 *Gov. & Coun.* 333.

As the opening day of the term drew near murmurs against the court had become so threatening that cautious men suggested to Judge Chandler the expediency of postponing the session. That shifty character pretended to acquiesce in the proposal so far as the trial of civil causes was involved but pointed out that it would be desirable to hold a court of General Sessions of the Peace to try a murder case that was on the docket. Whether the countryside had any faith in Judge Chandler's word is doubtful. At all events an angry and determined mob of about one hundred took the precaution of seizing Westminster Court House late in the afternoon of March 13, 1775, which was the day before the date scheduled for the opening of the term. What followed is recognized even by Ira Allen and Governor Hiland Hall as real Vermont history.

There presently arrived at Westminster Court House Sheriff William Paterson and a posse of sixty men whom, in anticipation of trouble, he had been recruiting in Brattleborough and the river towns to the northward during the two days last past. The sheriff's posse, some of whom had firearms and some of whom had clubs, approached to within a few feet of the court house door where Paterson commanded the mob to disperse. The mob showed no sign of yielding and Paterson read the *King's Proclamation*. The only results of this formality were shouts of defiance in which was recognized the voice of Charles Davenport, a Fulham carpenter, who declared that the rioters would stay in the court house as long as they pleased and that the sheriff and his men would be blown to hell if they undertook to force matters. Doctor Reuben Jones, in his highly colored report of the proceeding, makes the doubtful statement that the mob offered to permit the sheriff and his posse to enter if they would leave their weapons outside. After some time spent in nothing more violent than threats Sheriff Paterson, having notified the rioters that he would give them time to reflect, ordered his men to withdraw to John Norton's tavern for supper.

On the withdrawal of the posse some of the rioters left the court house and engaged in debate with members of the posse. In Yankee fashion they undertook to trade or compromise.

Samuel Gale, the county clerk, who was conspicuous in the "court party" and especially bitter against the mob, was prompt in trying to head off any parley. "I will hold no parley with such damned rascals," exclaimed Gale, "but by *this!*" With that he held up a pistol. This seemed to suspend the effort at adjustment and the members of the posse disappeared—some to Norton's and some to gather recruits. A substantial number of the mob remained in possession of the court house.

About seven in the evening Judge Chandler walked to the court house where, as Doctor Jones states, he gained admittance. To Chandler the rioters made protest that they had secured his promise at Chester, only a few days before, that there should be no firearms carried by the court party but that the sheriff's posse had come armed. Chandler's excuse, which seems to have been acceptable, was that the arms were brought without his consent. Still generous in promises he gave his word to the rioters that they might remain in undisturbed possession of the court house until morning. This visit paid to the mob by Chandler of course afforded opportunity for him to learn something of the force against which the court party must fight. Doubtless he made known the facts to Paterson at Norton's tavern where Paterson's men were then drinking heavily.

Late at night, Sheriff Paterson and his men, more in the mood for battle than they had been six hours before, gathered once again in front of the court house. Addressing the mob as if he meant business Paterson demanded entrance and assured them that he would force it unless it were peacefully granted. With this he mounted the steps at the door. Up to this moment there had been no act of violence, but on reaching the doorway blows of clubs rained upon him. History does not relate "who struck Billy Paterson"¹ first and thus began what some enthusiastic Vermonters have called the first battle of the American Revolution. The blows were hard enough to force Paterson to the ground, but he had the pluck to make a second attempt. Faring as badly as before he ordered his men to fire. After several gunshots by the posse and possibly a few by the mob Paterson's men stormed the door and forced an

¹ Is this the origin of the familiar slang?

entrance. Quickly routing the rioters, several of whom were made prisoners, the posse took and retained possession of the court house for the remainder of the night.

In this affray two of the posse and ten of the mob were wounded. In the case of the latter the wounds of William French and Daniel Houghton proved mortal. French died before daybreak on the morning of March 14 and is extravagantly styled by Mr. B. H. Hall as "the proto-martyr to the cause of American liberty and of the Revolution." Houghton lingered for nine days.

The "court party" was able to open court according to schedule on March 14 and devoted a part of the day to preparing an official report of the riot.¹ This report was subscribed by Judges Chandler and Sabin, Assistant Justices Stephen Greenleaf and Benjamin Butterfield, Deputy Sheriff Bildad Andross, and County Clerk Samuel Gale. The court then decided to adjourn until June. This was expedient since, according to Mr. B. H. Hall, not less than four hundred people had congregated at Westminster by noon of March 14. Half of this number, he says, were from New Hampshire and many were of military companies under the command of their captains. This assemblage promptly released the few prisoners taken by the "court party." Before evening the judges and all of the "court party" who could be found were placed under arrest. Threats of lynching and other violence were suppressed by Captain Benjamin Bellows of Walpole who seems to have had the coolest head of any of the whigs.

It was perhaps due to the wisdom of Captain Bellows that Timothy Olcott of Chester, one of the official coroners of Cumberland County, was called to hold an inquest over the body of William French. The report of the coroner's jury of seventeen men, under date of March 15, found that French came to his death by gunshot wounds inflicted at the hands of William Paterson, Mark Langdon, Christopher Osgood, Benjamin Gorton, Samuel Knight, and others unknown. Two members of the coroner's jury were Alexander Parmelee and Elihu Newell of Windsor.

Men continued to pour into Westminster throughout the

¹ *1 Gov. & Coun.*, 337.

day. On the evening of March 15, Robert Cochran, one of Ethan Allen's lieutenants from the west side of the Green Mountains, arrived on the scene with a band of followers so that by the morning of March 16 there were at Westminster "five hundred soldiers well equipped for war." The accession of Cochran and his men effected, perhaps for the first time, a combination of agitators on the east and west sides of the mountains. In spite of the disorderly elements in this considerable concourse of indignant settlers there was enough wisdom to select a committee to act for the whole. This committee decided to admit to bail Judge Chandler and six others on their giving bonds to Colonel John Hazeltine to appear for trial at such time as might be appointed. Sheriff Paterson, Judge Sabin, Assistant Justice Benjamin Butterfield, County Clerk Samuel Gale, and five others, were held without bail and sent under military guard to Northampton in the Province of Massachusetts Bay to be lodged in jail for trial. Cochran's company of twenty-five men with a like number of New Hampshire men under Captain Butterfield acted as guards on the journey.

Colonel Nathan Stone, who was one of the assistant justices, seems to have entirely avoided implication in the Westminster affray. The explanation doubtless lies in the fact that he was in New York City on March 8, and had not had time to return to Cumberland County for the beginning of the court session. The evidence of this may be found in the fact that on March 8 he recorded in New York City a patent for a new township, called Rutland, which the Provincial Government of New York under date of September 8, 1774, had granted to him in partnership with Judge Samuel Wells, Samuel Knight, John Church and a number of New York speculators. In connection with the granting of that patent, which related not to the present town of Rutland, but to a tract in the vicinity of the present town of Sheldon,¹ we may refer to Doctor Cadwallader Colden's letter to Governor Tryon under date of July 6, 1774. In this letter the Lieutenant-Governor said: ". . . It is proper your Excellency should now know that since my last letter the Council have advised me to issue patents to several

¹ *1 Collections, Vt. Hist. Soc., 157.*

persons who had not only heretofore obtained warrants of survey but who had other very strongly equitable claims—such as Col. Stone, Mr. Avery, Col. Willard, Mr. Ashley and Mr. Knowlton, whose warrants are all of them for tracts of land that never were granted by New Hampshire or the French.”¹

The outbreak of the American Revolution put a final end to sessions of courts of law under the government of New York upon the New Hampshire Grants. If there were any attempts to bring to trial the members of the “court party” or other participants in the Westminster Massacre such attempts have escaped the vision of the historian. With the incarceration of Paterson, Sabin, Gale, and their companions in Northampton, their subsequent release at the instance of Chief Justice Horsmanden of New York and the acceptance of the several bail bonds taken by Colonel Hazeltine, the curtain falls on the Westminster tragedy. There remain for consideration, however, the epilogues delivered by various contemporaneous authorities and the true meaning, if we can find it, of the Westminster episode.

Allusion has already been made to the memorial prepared by Judge Chandler and his associates,² to the affidavits³ of Hancock and Griffin and to the narrative of Doctor Reuben Jones.⁴ To these documents it is not necessary again to refer although the inquisitive reader who wishes to examine them at length may find in them enough of interest to repay perusal. It is, however, worth while to note Lieutenant-Governor Colden’s observations on the riot. In a letter addressed by him to Lord Dartmouth under date of April 5, 1775, and probably having in mind such matters as the Boston Tea Party, he expressed his belief that the inhabitants of Cumberland County had been infected by the example of the men of Massachusetts Bay. “It is proper that your Lordship should be informed,” he wrote, “that the inhabitants of Cumberland County have not been made uneasy by any dispute about the title of their lands; those who have not obtained Grants under this Government⁵ live in quiet possession under Grants formerly made by

¹ N. Y. Hist. Soc. *Colden Letters*, pp. 347–348.

² *1 Gov. & Coun.*, 337–338.

³ *4 Doc. Hist.*, 545–550.

⁴ *1 Gov. & Coun.*, 332–336.

New Hampshire. The Rioters have not pretended any such pretext for their conduct. The example of Massachusetts Bay is the only reason they have assigned. Yet I make no doubt they will be joined by the Bennington Rioters who will endeavor to make one common cause of it, though they have no connection but in violence to Government." With undisguised bitterness he also stated that according to advices "if the debts of the people who have been concerned in this outrage were all paid there would not be a sixpence of property left among them."¹

Except for a New York grant in Hinsdale (Vernon), Colden was correct in giving the impression that the holders of New Hampshire titles on the east side of the Green Mountains had not quite the same causes of complaint as the settlers to the west. Nevertheless the settlers in the Connecticut Valley were not wholly complacent in the thought of what they had paid or might be called upon to pay to the government of New York for confirmation charters nor were they by any means unanimous in their desire to remain citizens of that province. That the people of Cumberland County were affected by the example of disorder in Massachusetts Bay and by the discontent of the American colonies in general is probably quite true, yet the evidence is pretty strong that the immediate or proximate cause of the outbreak was impatience with the burden of the local courts and the distress of debtors.² Colden's sound prediction of union in effort between the settlers on the two sides of the Green Mountains—if it was a prediction—accords with his usual sagacity.

A somewhat singular sequel to the expulsion of the courts at Westminster is disclosed in a letter written by William Marsh and James Rose at Manchester on June 28, 1775.³ This letter related that a mob had lately assembled at Manchester with the intention of marching to Fort Edward and breaking up the courts at the latter point. On hearing that

¹ 4 *Doc. Hist.* 551.

² The letter of Solomon Phelps in the *Family Memoirs* compiled by John Phelps sets forth the "ignorance" and "knavery" of the Cumberland County Magistrates as well as the people's sympathy for the Massachusetts revolutionists.

³ 1 *Journal Prov. Cong. N. Y.*, 72.

the court house at Fort Edward was under the protection of Colonel Mott with some Connecticut troops the mob abandoned the project. A letter under date of June 5, 1775, from William Duer, covers the same subject.¹ It was the opinion of Marsh and Rose that the mob was composed of poor debtors. If this conclusion be the correct one and if the motive at Westminster could be inferred from that involved in the Manchester episode, there is little doubt as to the nature of these uprisings against the courts. It is to be noted that Fort Edward was beyond the western limits of the New Hampshire Grants but within the limits of Charlotte County which included Manchester and many other townships that were chartered by Benning Wentworth.

Of the real meaning of the Westminster affray, Mr. James Truslow Adams, in his scholarly *Revolutionary New England*, has perhaps stated the case better than any predecessor when he says it "has all the familiar ear-marks of an acute economic crisis on any frontier."² In the opinion of well-informed Vermonters it was not considered a part of the American Revolution, for we find a letter written by Jonas Fay and Ira Allen on February 7, 1782, in which they fix Vermont's first participation in the war as "after the Battle of Lexington."³ As might be expected Ethan Allen entertained a similar opinion.⁴

In a month's reflection on the Westminster Massacre the men of Cumberland County reached their own conclusion as to its meaning, or, at least, what had best be declared as its meaning. They refused to admit that it was an uprising of poor debtors who sought to evade their obligations. They refused to adopt as their own the specious pretext advanced by Doctor Reuben Jones to the effect that the General Assembly of the Province of New York had not endorsed the resolutions of the Continental Congress. They refused to assign the oppression of Great Britain as one of the causes. Beset by doubts as to the right or expedient course, embarrassed both by the thoughts of their own conduct and the ferment of impending war, their committee-men (who recorded that they had been

¹ *Id.*, 71-72.

² *Gov. & Coun.*, 369.

³ *Revolutionary New England*, p. 415.

⁴ *Id.*, p. 467.

"appointed by a large body of the inhabitants on the east side of the range of Green Mountains") gathered at Westminster in large numbers for what we may call the fourth Cumberland County Convention on April 11, 1775. Their resolutions passed on that day are important enough to be set forth in some detail.

First of all, the convention found "the government of New York" designing arbitrarily to take away the property of the inhabitants of the New Hampshire Grants. Second, the lives of such inhabitants were in danger under the administration of that province—witness, the affray at Westminster. Third, the inhabitants of the Grants should resist the authority of New York until they could lay before "his most gracious Majesty in Council" the several wrongs with a "petition to be taken out of so oppressive a jurisdiction and either annexed to some other government or erected and incorporated into a new one . . ." ¹ Although the settlers were destined soon to recant and almost to eat their own words, every point was directed for the moment against New York with not a word in opposition to the Crown. Expediency and caution may have had more weight than sincerity, for the situation was perplexing in the extreme. If the Cumberland County yeomen deemed it less dangerous to lay blame on the Province of New York than on Great Britain one should not be surprised. One point, however, stands out clearly and that is the alternative suggestion of a new and separate province. It was the first time that this idea had been publicly broached by a declaration of settlers upon the New Hampshire Grants.

In advancing a plea for a separate Crown province the men of Cumberland County are not to be credited with originality. Five and one half years before the date of this fourth Cumberland County convention the missionaries of the Society for the Propagation of the Gospel in Foreign Parts had heard of such a suggestion and had written to Sir William Johnson recommending Partridge Thatcher as a fit person to be appointed governor of the new province.² Later, Major Philip Skene had favored a similar project with the view of securing for himself the governorship and is said to have had the approval of Ethan

¹ Slade's *Vt. State Papers*, p. 60.

² 4 *Doc. Hist.*, 378.

Allen.¹ Governor Hiland Hall believes that the Cumberland County convention had reference to Skene's own undertaking,² but there is no evidence that this was the case. As far as public declarations of the settlers are concerned the germ of the idea of a separate government for the New Hampshire Grants is found in that utterance of the fourth Cumberland County convention at Westminster on April 11, 1775.

The concluding transaction of the fourth Cumberland County convention consisted in the designation of a committee, consisting of Colonel Hazeltine, Charles Phelps, and Colonel Ethan Allen, to prepare the remonstrance and petition already referred to. The composition of this committee was such that it could hardly have acted harmoniously in any event, but all opportunity to demonstrate its efficiency or inefficiency ended with the news from Lexington.

¹ *Allen's History*, p. 53.

² *Early History of Vermont*, p. 195.

CHAPTER XXIX

ANY PORT IN A STORM

THE bonds between the Province of New York and the inhabitants of the New Hampshire Grants had all but snapped. The measures adopted in New York City by the Provincial Legislature with relation to the Westminster affray made matters worse rather than better. Backed by the efforts of Samuel Wells and Crean Brush as Cumberland County's representatives in the assembly, that body voted an appropriation of one thousand pounds to preserve order and to protect the sittings of the court in Westminster.¹ This was followed immediately by offers of reward for the arrest of Ethan Allen, Robert Cochran, Seth Warner, and several other of the inhabitants on the west side of the Green Mountains.² At the same time the people of Cumberland County through a committee of four were canvassing their own financial condition—apparently with special reference to the county tax which they now hoped might be evaded.³

Threatening as were the local conditions and although the war of the Revolution had actually begun, no sign of either was revealed in Thomas Cooper's warning under date of May 8, 1775, for Windsor's annual town meeting to be held on Tuesday, the sixteenth. Nor does the record of the meeting itself reflect the slightest sign of anything out of the normal except a vote that "no person shall build any pew in the town house without the consent of the town." Thomas Cooper was re-elected town-clerk, Hezekiah Thomson was chosen moderator and supervisor, and Captain William Dean, who by this time had lived down his disgrace of five years before, was raised to the office of overseer of the poor and surveyor of highways. But this peaceful atmosphere prevailed in Windsor for less than a month. The lively performances of Ethan Allen's Green Mountain Boys had taken place on May 10, and in the

¹ H. Hall's *Early Hist. Vt.*, 193.

² *Id.*, 194.

³ B. H. Hall's *Hist. Eastern Vt.*, 245, note.

course of thirty days the people of Windsor began their preparations for war.

To the enterprise and personal ambition of Ethan Allen is due the promptness with which the inhabitants of the New Hampshire Grants engaged in the war of the Revolution. Whether he was the first to conceive the plan of seizing Fort Ticonderoga may be doubted. Ira Allen, whose statements were likely to be prompted by expediency rather than by truth, said that Ethan Allen's activity was the result of a communication from the governor and council of Connecticut.¹ The idea probably occurred to many in Massachusetts, Connecticut, and New York at the same time; but Ethan Allen had the advantage of proximity and had followers whose training and practices made them keen for an expedition of a sort to which they were accustomed, which gave promise of excitement and would yield no little popular applause. The raising of an adequate band was easy. Indeed, Allen reported that forty-six seasoned soldiers from Massachusetts Bay under the command of Colonel James Easton participated in the undertaking.

At Fort Ticonderoga, as was ascertained by a spy, were a garrison of only thirty-one men² under a captain and a lieutenant who were unaware that war had actually begun. Benedict Arnold, who had arrived on the New Hampshire Grants with a commission from Connecticut, had joined Allen and the two conferred on the subject of taking the fortress. Although Arnold's counsel on account of his military training may have been of value he was not permitted to take command. Allen was not the man to accept orders from anybody else if he could avoid doing so. This point being settled, with eighty-three men Allen and Arnold crossed Lake Champlain before break of day and surprised the fort. Not a gun was fired. Outnumbered by something like two to one the commandant at Ticonderoga, appearing at the head of the stairs in his nightshirt, replied to Allen's demand for surrender by asking the Green Mountain

¹ Allen's *History of Vt.*, p. 166.

² Calculated from Dr. Williams's version (2 Williams *Hist. Vt.*, 2d ed., p. 38). Other reports place the British garrison at somewhat over forty. Ethan Allen, writing four years after the capture of the fortress, put the number at fifty, inclusive of officers. Timothy Dwight (*Travels*, vol. 2, p. 408) says forty-nine.

chieftain's authority. Allen's answer has gone down into history: "In the name of the Great Jehovah and the Continental Congress," announced Allen, in spite of the fact that he held a commission from neither source. It was a mouthfilling phrase, in typical American style, regardless of strict truth, but Oh! so satisfying to the speaker and his followers and their posterity. It is an early and one of the best examples of the power or vitality of mere language in American affairs.

The seizure of Ticonderoga, followed by Seth Warner's taking of Crown Point and the capture of a small armed sloop on Lake Champlain (although Allen who hardly realized their importance characterized these events merely as a "private expedition") definitely spread the war to the New Hampshire Grants and New York. At New York City there convened a revolutionary provincial Congress of which Peter Van Brugh Livingston was elected president. Cumberland County, on account of its remoteness, failed to be represented at the organization meeting, but Colonel John Hazeltine as soon as possible assembled a county convention at Westminster for the purpose of choosing county delegates to subsequent sessions of such Congress.

This, the fifth Cumberland County convention of which partial record has been preserved, was a revolutionary body. Meeting on June 6, 1775, less than two months after their session which declared in favor of separation from New York, the delegates completely ignored the topic that so lately had agitated them and, instead, under the sobering prospect of war with Great Britain eagerly sought union with and help from New York. They declared their opposition to the acts of Parliament, their willingness to resist such acts with their lives and fortunes, and their acquiescence in the "Association" for the "liberties of America" as formulated by Isaac Low's committee in New York on April 29. Beyond this, and to their minds equally important, they sought to impress on the New York Congress that Cumberland County was "broken" in respect to civil authority, was defenceless for want of arms and ammunition and, though blessed with "many brave soldiers," had nothing to fight with. They therefore besought not only New York's advice, but that "the honorable Provincial

Congress . . . from their generosity and goodness would do what in them lies for our relief in the premises." Their memorial to New York wound up by setting forth the election of Colonel John Hazeltine, Doctor Paul Spooner, and William Williams as Cumberland County's delegates to the New York Congress.¹ It was a case of any port in a storm. Even New York was a welcome and needed ally.

Two Windsor settlers were members of that fifth Cumberland County convention, viz., Joab Hoisington, and Benjamin Wait. If it be thought that the convention's declaration was a complete reversal of county sentiment, the following letter addressed to the president of the Provincial Congress of New York by William Williams, Joab Hoisington, and Benjamin Wait will, in its protestations of respect and affection for New York, strike the reader as even more remarkable:

Westminster, June 9, 1775.

Sir:

We, the subscribers, beg leave most humbly to shew, that being deeply impressed with the great importance of having a Regiment duly prepared, at the least notice, in this County, in order to keep under proper subjection *Regulars*, *Roman Catholicks*, and the *Savages* at the northward, as also to be ready at all times to defend our rights and privileges against Ministerial tyranny and oppression, seeing hostilities have already commenced, and the sword is actually drawn in order to enforce certain tyrannick and arbitrary acts of the British Parliament, replete with horror, and repugnant to every idea of *British* freedom; we, the loyal inhabitants of this County, glowing with true martial ardour, and willing, with the utmost cheerfulness and alacrity, to unsheath the sword in defence of the lives and properties of the good people of this ancient and truly respectable patriotic Colony of *New York*, beg leave to offer our services in the defence of this Province, and *America* in general. We therefore, with due submission, prepare cheerfully and with the utmost gratitude to accept (if your honorable Congress shall think proper) commissions from this honorable Provincial Congress, viz., Colonel, Lieutenant-Colonel, and Major.

¹ 1 *Gov. & Coun.*, 339-341.

We determine to be entirely under the command and order of the Provincial Congress, hoping we shall truly merit the favors of said Congress, and be useful instruments in serving this ancient and honorable Colony of New York, as also the common grand *American* cause.

Sir your assisting us in this our humble request, and presenting to us the above-mentioned Commissions, would much oblige your most obedient humble servants

Wm Williams
Benjamin Waite
Joab Hoisington

To the Honourable P. V. B. Livingston, President of the Provincial Congress

N.B. We hope to raise a Regiment of good active enterprising soldiers in this County, which we hope will reflect honour on this Colony. The arrangement of said commissions we desire might be according to the following order: Major *William Williams*, our Delegate, to be first Colonel; Major *Benjamin Wait*, Lieutenant-Colonel; Captain *Joab Hoisington* Major.¹

Significant as the foregoing letter is as indicating the changed sentiments of the settlers, the bold and uncompromising Ethan Allen was not far behind Williams, Wait, and Hoisington in making overtures to New York. Though he approached the subject circuitously and in better order his attitude became virtually the same as theirs. Under date of June 7, 1775, he had actually deigned to write to the Provincial Congress of New York recommending the raising of a regiment of rangers under his own leadership and the invasion of Canada.² Three days later he and Seth Warner decided to visit the Continental Congress at Philadelphia. Here they succeeded in securing an appropriation with which to pay the men who had taken Ticonderoga and Crown Point. At the same time John Hancock gave them a letter to the Provincial Congress of New York together with a resolution of the Continental Congress in favor

¹ 2 *Am. Archives* (4th Series), cols. 938-939.

² 3 *Id.*, col. 893.

of employing the Green Mountain Boys as soldiers in the war. With this resolution and Hancock's letter Allen and Warner waited upon the New York Provincial Congress in New York City. Though the latter body was naturally reluctant to deal with characters so notorious as the bearers of these documents a vote was passed on July 4, approving the raising of a battalion of five hundred Green Mountains Boys with leave to choose their own officers except field officers. Satisfied with this no inconsiderable achievement Ethan Allen was moved to write the Provincial Congress of New York the following letter:

Ticonderoga, 20th July, 1775.

Respectable Gentlemen:

When I reflect on the unhappy controversy which hath many years subsisted between the Government of New York and the settlers on the New-Hampshire Grants, and also contemplate the friendship and union that hath lately taken place between the government and those its former discontented subjects, in making a united resistance against ministerial vengeance and slavery, I cannot but indulge fond hopes of reconciliation. To promote this salutary end, I shall contribute my influence, assuring your Honours, that your respectful treatment not only to Mr. Warner and myself, but to the Green Mountain Boys in general, in forming them into a battalion, are by them duly regarded, and I will be responsible that they will retaliate this favour by wholly hazarding their lives, if needs be, in the common cause of America.

I hope no gentleman in the Congress will retain any preconceived prejudice against me, as on my part I shall not against any of them; but as soon as opportunity may permit and the public cause not suffer thereby, shall hold myself in readiness to settle all former disputes and grievances on honorable terms.

I am, gentlemen, with the greatest respect

Your devoted, most obedient, humble serv^t,

Ethan Allen.

To the Honble Provincial Congress, New York.¹

Thus for the third time in five years Ethan Allen's relations with the government of New York were on an amicable footing.

¹ 4 *Doc. Hist.*, 554.

Such had been the relations up to and during the trial of the ejectment cases at Albany. Again for a brief period in 1772, when Governor Tryon offered a conciliatory hand, Ethan Allen at Bennington proposed a toast to him and to New York's Council;¹ and, finally, in the year 1775 when Allen thought he saw an opportunity to gain military distinction in the Revolution.

The fifth Cumberland County convention probably decided on another measure of which no original record has come to light. This is to be inferred from the record of a meeting of the freeholders and inhabitants of the town of Windsor convened "according to the Resolves of the Congress of the County of Cumberland" on June 15, 1775. The endorsement on the sheet containing this record is "A Meeting to Chuse a Committee of Safety & how Highway work shall be done. June y^e 15th A.D. 1775" and explains what might from the record itself be deemed obscure. According to the record, after the choice of Captain Benjamin Wait as moderator, the following were chosen—not, in terms, as a committee of safety but as a "Committee to Regulate & Decide Controvercies in the Town":

Deacon Hezekiah Thomson
Captain Benjamin Wait
Thomas Cooper
Ebenezer Curtis
Jeremiah Bishop

That there was conflict of opinion at this meeting is clear from what next followed:

"Voted and chose Ensn. Smeed ²

Mr. Ebenezer Hoisington
Lieut. Watts Hubbard
Mr. Asaph Butler and
Mr. Solomon Emmons

a Committee to draw up instructions for the above mentioned Committee to act upon."

¹ 4 *Doc. Hist.* 482; H. Hall's *Early History of Vt.*, 141.

² Probably William Smead, senior.

Nothing could have been better calculated to create confusion and render futile the work of the original committee of five than the appointment of a second committee of equal size to instruct the first. We may assume from Benjamin Wait's having been chosen moderator and a member of the first committee that he had impressed upon his townsmen the views expressed by him in the letter which he, William Williams, and Joab Hoisington, had sent to President Livingston of the Provincial Congress six days earlier. His four colleagues on the committee probably shared his views and were ready to join hands with New York in war against Britain. The views of the members of the second committee we can only guess. Perhaps they themselves were not unanimous, for we presently find Ebenezer Hoisington outspoken against New York, while Watts Hubbard, junior, was soon under charges of disloyalty either to the "new state" or to the American cause. The writer can find no clue as to what were the positions of Smead, Asaph Butler, or Solomon Emmons at that stirring moment. Happily, after an adjournment to the afternoon of the same day, the meeting voted to leave the "business of the town" with the first committee "without the instruction of the other committee chosen for that purpose *they being all agreed.*" Whether the two committees agreed or whether the first committee was unanimous as to its proper course and wished no instructions, it is impossible to determine. It is clear that among some of the townsmen there had been disagreement or doubt.

The meeting concluded its work by assessing a tax or "rate" for highway work to be assessed by the committee, but "in the same manner as the county tax," thus indicating an understanding that, though provincial authority had ended, the wheels of government ought to be kept moving by a provisional local organization, but along familiar lines.

One misses at this period of Windsor's history the names of Israel Curtis and Joseph Wait. It is a singular circumstance that these two important figures, as well as Joab Hoisington—the three Windsor settlers who as commissioned officers gave their lives in the Revolutionary cause—had taken residence elsewhere. Curtis, by his local fame as a builder of

mills and an organizer of new settlements, had attracted the attention of President Eleazar Wheelock. Wheelock, wanting such a man as Israel Curtis to subdue the wilderness in which Dartmouth College had been planted, had engaged him. In Hanover, Curtis was making his headquarters, if not his actual residence. He may have entertained towards Windsor the *animus revertendi*, for he (or rather his wife Elizabeth) retained title to a substantial portion of their Windsor lands; but he became prominent in the affairs of Hanover and Dresden and the Province of New Hampshire, was prompt to organize there a company of soldiers for service in the war, and was commissioned a captain by that Province. His son, Zebina, who later became Windsor's leading citizen and one of the strong Vermont characters, was a member of the Dartmouth College company. A couple of Israel Curtis's letters, written while on duty in Canada, have been preserved. They indicate him a typical, rugged Christian of New England, ready to do his duty at any cost. The following extracts from his letter written to President Wheelock from St. John's on November 3, 1775, are worth while: "I expect to be on my way home in two weeks; but however God will order that, I hope to submit that matter. . . . Desire your prayers for me and my company, for God's blessing on all our ways, that the harmony that has already subsisted in my company may still continue." He had the good will of General Montgomery and General Wooster, who treated him with courtesy and consideration. He served in the army until his death, which occurred at the Nuns' Hospital at Montreal, April 10, 1776. Shortly before this the Continental Congress had commissioned him as major of the Continental line.

Joseph Wait, as has previously been stated, had been granted by Governor John Wentworth and the Provincial Council of New Hampshire, five hundred acres of land in the southwest corner of Claremont. Thither he had removed. In 1775 he received a commission as lieutenant-colonel in the first New Hampshire regiment (Bedell's). His command was ordered to Canada. He was wounded by a splinter from a bursting cannon and invalided home in 1776. On his return he died of his wound on September 13, and was buried by the

roadside in the town of Clarendon on the west side of the Green Mountains.¹ His wife and children subsequently returned to Windsor, where his daughter Martha became the wife of Zebina Curtis.

Of Joab Hoisington's desertion of Windsor for Woodstock under the cloud of Aaron Bartlett's death we have already written. We shall mention later Joab Hoisington's efforts as a soldier.

William Dean, junior, and Jacob Getchell had moved down to Weathersfield. David Stone died in Windsor, December 29, 1775. Samuel and Joel Stone had disappeared. Samuel Stone may have gone to Claremont, New Hampshire, with his brother-in-law, Joseph Wait. That Samuel Stone had not moved to a great distance is indicated by his enlistment as a soldier in Captain Benjamin Wait's company of Hoisington's Rangers at Windsor, August 6, 1776. The name "Sam^l. Stone" appears as a sergeant in Lieutenant-Colonel John Peters's muster-rolls of the Queen's Loyal Rangers, but the reference may not be to Samuel Stone, of Windsor. Joel Stone was a Barnet grantee, but whether the same as the Joel of Windsor the writer knows not. Enoch Judd had moved to Claremont and Caleb Benjamin had died.

Allen and Warner, having been successful in their efforts to obtain from the Provincial Congress of New York an authorization for the enlistment of the Green Mountain Boys, a meeting was held at Dorset on July 26, 1775, to make choice of officers. To Allen's great mortification, he was overwhelmingly defeated by Warner in the ballot for the lieutenant-colonelcy, nor was he chosen for any office whatever. Besides the nomination of Warner as lieutenant-colonel, this meeting nominated a major and elected seven captains and fourteen lieutenants—all from towns on the west side of the Green Mountains—and thus formed the beginning of that noted body of soldiers known as Warner's Green Mountain Boys.² With commissions from New York, the battalion joined the

¹ Joseph Wait's character, according to Colonel Frye Bayley who hated him, was brutal. See "Col. Frye Bayley's Reminiscences" in *Proceedings of Vt. Hist. Soc.* for 1923-1925, pp. 33, 45, 55.

² 1 *Gov. & Coun.* 6.

northern army under that brave son of Ireland, General Richard Montgomery, in the month of September for an invasion of Canada. One of the captains in Warner's battalion, Captain John Grant, came as far east as Windsor in search of recruits. He was here in the last days of July and secured the enlistment of Steel Smith's second son, Asahel, John Heath, Zenas Lull, Joshua Slayton, and William Hunter.¹ Steel Smith's eldest son, Roswell, joined them in September.

Rejected by the Green Mountain Boys, Ethan Allen had secured General Philip Schuyler's permission in the month of August to proceed northward for information as to the possibility of recruiting Canadians.² He obtained this employment upon giving his promise to comport himself properly. Though he held no commission, he was spoken of loosely as "Colonel" Allen. Montgomery made similar use of him. In this capacity Allen exerted himself with zeal and no little success. Soon he had gathered about him a band of two hundred and fifty, with prospects of as many more. Enthusiastically he wrote of his achievement to Montgomery on September 20.³ Good fortune, however, seems to have turned his head, and in a wild burst of ardor on September 25, without orders from General Montgomery or anybody else, he attempted the capture of Montreal. He paid for this rashness by the loss of most of his men through casualties and desertions and by being himself taken a prisoner. Thus was removed from participation in the history of the New Hampshire Grants and Vermont, for a period of two years, eight months, and six days, their most stirring and puissant personality.

Mr. Crockett, out of loyalty to Vermont's famous chieftain, makes a late attempt to justify Ethan Allen's assault on Montreal,⁴ but the judgment of history is against him. Washington's words on Allen have the tone of finality: "Colonel Allen's misfortune will, I hope, teach a lesson of prudence and subordination to others who may be too ambitious to outshine their general officers, and, regardless of order and duty, rush into enterprises which have unfavorable effects on the public

¹ Roswell Smith, *Genealogy*, 2d ed., p. 47; *Windsor Centennial Memorial*, p. 40.

² H. Hall's *Early Vt. Hist.*, 214.

³ H. Hall's *Early Vt. Hist.*, 215.

⁴ Crockett's *Hist. Vt.*, vol. I, pp. 507-509.

and are destructive to themselves." Though quite deficient in military training, Allen was described by Arnold as "a proper person to lead his own wild men." General Washington once spoke of him as brave. Yet when choosing between Allen and Warner as a military commander, the Green Mountain Boys unhesitatingly preferred the latter. Allen had plenty of physical courage, had unbounded confidence in his own abilities and resourcefulness, and was but little hampered by scruple. He had, moreover, real zest for the exciting part of a soldier's work in time of war, and he thus set an example to the settlers upon the New Hampshire Grants in the early days of the American Revolution. A good proportion of his popularity depended on his humor, his success in maintaining a show of candor and fairness, and especially on his gift of loud and florid language, both written and oral, such as would do credit to a rustic journalist of the twentieth century. In an age when, in most parts of New England, the straight-laced Congregational Church and the State were nearly one and the same institution, Allen's boorish contempt for established religion made general esteem for him impossible. President Ezra Stiles, of Yale, in recording in his diary the death of Ethan Allen, thus passes judgment: "Died in Vermont the profane and impious Deist, Gen. Ethan Allen, Author of the Oracles of Reason, a Book replete with scurrilous Reflexions on Revelation. 'And in Hell he lift up his Eyes being in Torments.'"¹

In the fourth volume of the *Documentary History of New York*, at pages 554 and 555, is the record of what is represented to be the declaration of a convention of settlers on the New Hampshire Grants at Dorset on September 25, 1775. The editor of the *Documentary History* was mistaken as to the year, which should have been 1776. Curiously enough, Mr. E. P. Walton, in editing *Governor and Council* was misled, after deliberation, into accepting this record as of the year 1775.² Mr. Crockett pointed out reasons why the record could not have been made in 1775.³ Conclusive proof of the error lies in the fact that it represents Seth Warner and several of

¹ 2 *Diary of Ezra Stiles*, p. 161.

² 8 *Gov. & Coun.*, 382-385.

³ Crockett's *Hist. Vt.*, vol. II, pp. 189-190.

his officers as present at Dorset on September 25, 1775, when, as a matter of fact, they were then off on the Canadian campaign.

In raising troops on the east side of the Green Mountains, the Congress of New York proceeded with more leisure. From the town of Townshend seven men had left for Roxbury in Massachusetts to join the Continental troops under General Washington.¹ Perhaps there were volunteers from other towns. The Cumberland County Congress or Committee of Safety, which held its sixth meeting at Westminster on July 26, left no record other than that it confided to William Williams the sole authority to represent the county at New York.² There was, however, a county nomination of military officers whose names are set forth by B. H. Hall in his *History of Eastern Vermont* at pages 770 to 771, but there is no evidence that any of these officers ever had an actual command. Finally, in August, the Provincial Congress ordered that the counties of Cumberland, Gloucester, and Charlotte be embraced in one brigade, and pursuant to such order the Cumberland County Congress and Committee of Safety met for the seventh session at Westminster on November 21. Since the notifications or warnings for this meeting may have been preserved nowhere outside of the Windsor town records, and since they are not without interest, they are set forth in their entirety:

"Att a Request Dated October ye 18th 1775 of six of the Committee Men from six Towns—Viz

Gillford—	Benj ⁿ Carpend ^r Esq ^r
Halifax—	John Thomson
Hensdale—	Eleaz ^r Patterson
Fullom—	Enoch Cook
Rockingham—	Moses Wright
Chester—	Tho ^s Chandler Jun ^r

Upon s^d Request I have Thought proper as being oblig^d by a former Vote To apoint the Twenty first Day of November

¹ B. H. Hall's *Hist. Eastern Vt.*, 248, note.

² 1 *Gov. & Coun.*, 341. The diary of Samuel Stevens, of Charlestown, gives the date as July 25, and mentions the presence of Colonel Nathan Stone.

Next to meet at Westminster at Nine oClock in the founnoon then and there to acte on the following articles Viz

- "1. To chuse a Modrator to govarne s^d meeting
- "2^{dly} To Examin to the cause of the Universal Uneasyness In the County mentioned in s^d Request and to provid a Remady If Posseable for the same.
- "3^{dly} I am Desired to Reccomed it to the Sevrall Towns to Give Genral Instructions to sutch men as they shall Chuse and in petculer for Raising Money to Difray the County Charge which seames to be one Grand Cause of uneasyness.
- "4^{thly} You are Desired to send in by the man or men that you shall send to the County meeting a True Vallieuation Viz how many mailles above sixteen years old in Each Town and how many acres of Improved Land and houses and Barnes mills that is worth a Rating and how many oxen & horses above four years old & Cows Three years old and sheep & hogs one year old.
- "5th To See what head and Lands & buildings & Stocks as mentioned in the forth article shall be Vallued at in order to make a Tax to Tax the people with. Let y^r sum be Great or small So that Justice may be Equally Done to Every person in the County.
- "6th To See what the County will do with Sutch Towns as shall not send in a Vallieuation if any there should be that Do not.
- "7 To see if the County will Raise money to Defray the County Chargs.
- "8th You are Desired to Send Stedey Liberty Men that have always apperd stedfast in the Cause of Liberty. and also to acte on any other matter as thay shall think for the pease and safety of the County.

"Townshend October Y^e 18th 1775

John Hazeltine, Charman."

Good John Hazeltine! It was a fine warning even if the topics were unpleasant. On the back of Windsor's copy Chairman Hazeltine endorsed these two personal messages:

"To Mr. Hezekiah Thomson County Committee man for Windsor Sir: I have Rec^d Intiligence from York and think it proper for the Committee to meet on the 21 Day of Novemb^r at Westminster at Nine in the forenoon. Sir, pray Don't faill.

John Hazeltine Charman

"To the Town Clark in Windsor

To be Communicated to the Town"

It was doubtless to economize in writing-paper that John Hazeltine used but one sheet for the warning of the County Congress and the notice of the meeting of the County Committee of Safety. He seems to have intended that the Town Clerk of Windsor should call a town meeting to choose delegates for the county congress while Hezekiah Thomson as a committee man should be Windsor's representative at the meeting of the County Committee of Safety. The Windsor records show no town meeting called in response to Hazeltine's warning.

As if in an endeavor to assemble the County Committee of Safety at an earlier date Hazeltine sent the following letter to Windsor on November 6:

"Townshend, November y^e 6: 1775.

"Gentlemen:

"You are Desiered to Meet the Committee of Seftey at Westminster on Fryday Next at Nine a Clock in the morning: To Take under Consideration the Reports of the Provincial Congress Respecting Choosing Diligates to Send to New York to Set in Congres this Winter, fail not, for it is Mater of Importance.

from yours to Sarve

John Hazeltine Charman

For

Deacon Hezekiah Thomson

and Capt. Wate

in Windsor, Committee men."

There is no record to show whether pursuant to the last note Deacon Thomson and Captain Benjamin Wait or the committee men from any of the other Cumberland County towns

attended a meeting at Westminster on November 10. The matter of the election of the delegates "to Set in Congress" was attended to at the county meeting on November 21, when Major William Williams and Doctor Paul Spooner were returned as county deputies. A more important transaction of this meeting was the nomination of brigade and regimental officers. These nominations, which are set forth at page 342 of the first volume of *Governor and Council*, aroused so much local jealousy that only a portion of the nominees received commissions from the Provincial Congress. James Rogers, nominated as Brigadier General and soon to prove himself a Loyalist declined to serve. Joab Hoisington was commissioned as Colonel of the regiment of Minute Men and Elisha Hawley was commissioned quartermaster of the same regiment, but the writer finds no record that these troops were mustered into service.

The protests against the nominations made at the county convention on November 21 were coupled with criticism of the high handed manner in which the several conventions had been conducted. Besides the complaints of individuals there were remonstrances with numerous signatures from the towns of Putney, Westminster, and Fulham. It was stated that a ring of a few men controlled. John Grout charged Colonel John Hazeltine with being a dictator. Without taking such outbursts too seriously or more than the normal ebullition of Vermont spirit it is quite easy to understand that in the turmoil of a revolution there would be occasional use of arbitrary methods and many lapses from orderly procedure. The convention of November 21, however, had the tact to order a new election of county committee men and local committees of safety. To this order Windsor responded by a town meeting on December 20.

Hezekiah Thomson acted as moderator, but was not returned as one of the county committee. Benjamin Wait, who by this time was engaged in military pursuits, was dropped from both the county and the local committees of safety. Captain William Dean and Thomas Cooper were elected to the County Committee and to the Town Committee while Colonel Nathan Stone, Deacon Thomson, Ebenezer Curtis, Ebenezer Hoisington, and William Smead were made members

of the latter. The meeting also showed public spirit and generosity in voting eight pounds and five shillings towards paying the expenses of the county's delegates to the Provincial Congress.

As far as Cumberland County was concerned the late breach with New York seems to have been overlooked for the balance of the year. Not so, however, on the west side of the Green Mountains. There it had been observed that when the officers of Warner's battalion received their commissions they were expected to take an oath of allegiance which might prove embarrassing when the question of land titles should again arise. A local convention to consider this point among others was accordingly called to be held at Dorset on the sixteenth of January, 1776.

The year 1775 ended with the disastrous assault on Quebec in which the gallant Montgomery lost his life. Perhaps, had that life been spared, the history of Vermont would have been far different from what it is. For Richard Montgomery was a singularly lovable character, a soldier of bravery and capacity and the first trained leader under whom the Green Mountain Boys had served since the beginning of the controversy with New York. A New Yorker by adoption, allied by marriage with one of the best and most influential families in the Province, possessing every personal quality which should have inspired the affection, trust, and respect of his soldiers, he was the one man who seemed to have been fitted to settle the long-standing feud between the settlers on the Grants and the government of New York.

Montgomery had no illusions with regard to the character of the men in his army. Mortified by Allen's insubordination and imprudence, he wrote in a private letter to his brother-in-law, Robert R. Livingston, under date of October 5, 1775: "The New Englanders, I am now convinced, are the worst stuff imaginable for soldiers. You would be astonished how their regiments are melted away and yet not a man died of any distemper that I have heard of. There is such an equality among them that the officers have no authority.¹ . . . I

¹ This same excessive spirit of equality Washington complained of in the Massachusetts soldiers (Bassett's *Middle Group of American Historians*, p. 110). Colonel Tompkins found it also among a better body of troops in the First

don't see among them that zealous attachment to the cause I flattered myself with, but indeed they are homesick." He formed an even more unfavorable impression of the First New York Regiment which he said was "the sweepings of York streets; and they have not more spirit than the New Englanders, their morals are infamous and several of them have deserted."

But in spite of early discouragement, Richard Montgomery labored with the skill of a trained soldier and with all the charm and persuasiveness of a gentleman and born leader until he had made of his unpromising troops an army in which he felt a measure of confidence. It is pleasant to recall that two men of Windsor—Captain Israel Curtis with his New Hampshire company and Sergeant William Hunter who as an orderly was attached to the person of General Montgomery—had the privilege of serving near to that inspiring young hero of the early Revolutionary days.

With a lieutenant's commission, William Hunter returned to Windsor in December for recruits and according to Reverend Sewall Cutting, succeeded in the following month in enlisting Ebenezer Hoisington, Phineas Killam, Joel Butler, Asa Smead, Jonathan Hodgman, and Solomon Emmons and re-enlisting John Heath.¹

Vermont Cavalry in our Civil War. (*The Vermonter*, vol. XVII, p. 507.) "I'm jest ez good ez you be," may not really be the belief of the speaker, but his ambition to make this sentiment his creed will as frequently retard his progress as it will promote it. Yet who will deny that this same spirit was largely responsible for American independence and the war against slavery?

¹ *Windsor Centennial Memorial*, p. 40.

CHAPTER XXX

EBENEZER HOISINGTON

THE convention which was held at Dorset on January 16, 1776, was composed wholly of representatives from towns on the west side of the Green Mountains. Like the preceding Dorset convention of July 26, 1775, it was erroneously classed as a "General Convention" by Mr. E. P. Walton in the first volume of *Governor and Council*. As a matter of fact the convention of January, 1776, was, and was intended to be, as local or sectional as the Cumberland County conventions, because only those inhabitants of the Grants "west of the range of Green Mountains" were warned to attend. No others did attend. The important topics announced for discussion were: first, the question of obedience to New York law when not in conflict with New Hampshire land titles; second, the regulation of "schismatic Mobbs"; third, the expediency of sending lobbyists to the Continental Congress; fourth, the question of uniting with New York in the defense of the American colonies or acting alone. The first of these subjects was not new. Already, at the convention held on January 31, 1775, it had been solemnly decided that, while New York laws and officers of the law should be resisted in all that pertained to the old land title dispute, the settlers would, in all other matters, respect the laws of New York. The three other subjects were new.

The convention, after being in session two days and devoting its time almost entirely to the proposal of sending a petition to the Continental Congress, agreed on a form of memorial to that body and delegated persons to present it. This paper was the product of a committee of three consisting of Doctor Jonas Fay who became one of the most active and conspicuous of the founders of Vermont; William Marsh of Manchester, who, after exhibiting great zeal in setting up a new state, went over to the enemy and joined Burgoyne; and Thomas Rowley (or Rowlee) of local fame as the writer of patriotic doggerel.

The effort of this committee, addressed to John Hancock as President of the Continental Congress, was styled "The Humble Address, Remonstrance and Petition of that part of America being Situate South of Canada line, West of Connecticut River, North of the Massachusetts Bay and East of a twenty Mile line from Hudson's River commonly called and known by the name of the N. Hampshire Grants." Obviously this was a falsehood to the extent that it purported to be the voice of the entire district. The same untruth appeared in the certification at the end of the document. In other respects the paper fairly presented the old arguments—hardship, injustice, and attempted extortion—and supplemented them by the new point that the inhabitants if sworn in as soldiers of New York might be bound by the oath in such a way as to embarrass them subsequently in asserting their New Hampshire titles. They therefore sought permission to serve either as Continentals or as soldiers of the New Hampshire Grants rather than as soldiers of New York.

Whatever may have been the sincerity of this plea it was shrewdly calculated to win the attention of the Continental Congress since that body was more concerned about raising troops for the general defence than in deciding a question of title to real estate. It was a fetching plea: "that your petitioners' ardent desires of exerting themselves in the present struggle for freedom may not be restrained and that we might engage in the Glorious Cause without giving our opponents any advantage in said Land dispute" we would wish the latter controversy to "lie Dormant until a general restoration of Tranquility shall allow us the opportunity for an equitable decision of the same."

What could be fairer or more plausible? Yet the scheme worked poorly. Heman Allen, a brother of Ethan and Ira, was the bearer of the communication to the Continental Congress. Having presented it to that body early in May he remained in Philadelphia a month waiting for a decision. The committee of the Continental Congress to which the petition was referred recommended to the Dorset convention and to Mr. Allen that the inhabitants of the Grants should, in the present American emergency, consent to do duty under New York but expressed

the opinion that such submission ought not to prejudice the holders of New Hampshire titles. We have Heman Allen's word for the fact that at Philadelphia several gentlemen privately counseled him on the expediency of uniting the *whole* of the Grants in a single association and not in affiliation with the Provincial Congress of New York. These gentlemen realized as, doubtless, did the Continental Congress that Heman Allen's constituency was but a fraction of the district. There is some evidence that Samuel Adams, who thought well of organizing a New England confederation, may have planted other ideas in Heman Allen's mind.¹

Less subtle, perhaps more straightforward, certainly more disturbing to the government of New York, as will be pointed out a little further on, was the procedure of the inhabitants of the Grants on the east side of the Green Mountains in Cumberland County. Their military organization had been planned on a more elaborate scale. Officers of the Upper Regiment and the Regiment of Minute Men had already been chosen and, on February 1, 1776, at the eighth Cumberland County meeting, the disagreements in the southern part of Cumberland County had been sufficiently ironed out to permit a choice of officers for the Lower Regiment. At this meeting of the county committee of safety which reached that happy conclusion Captain William Dean and Thomas Cooper should have been present as Windsor's delegates, although the writer is unable to find a list of the committeee-men who actually attended.

The three Cumberland regiments having been duly officered the next step was the choice of a brigadier general and a brigade major for the troops of Cumberland, Gloucester, and Charlotte counties. The nominating committee, consisting of three committee-men from each of these three counties, were ordered to meet at Windsor for this purpose on May 22, 1776. This meeting, it is interesting to note, was probably the first, other than meetings of a purely local nature, to be held at Windsor. The selection of the place was due to its geographical position with reference to the several counties and not for any then recognized eminence which the town had then attained in the affairs of the New Hampshire Grants. The achievement of the

¹ *Life of Samuel Adams*, vol. II, pp. 358-359.

meeting, over which Colonel Joseph Marsh presided, was the nomination of Jacob Bayley of Newbury as brigadier general and Simon Stevens of Springfield as brigade major.¹ Wiser selections could hardly have been made if the sole object were the advancement of the Revolutionary cause. Neither nominee was hampered by anxiety for his land titles or bitten with the idea of hostility to New York. Both were widely informed of matters on the New Hampshire Grants, both were possessed of superior intelligence and both had the influence and standing of elected delegates to the New York Provincial Congress. The sterling quality of Bayley's patriotism has already been mentioned.

The nominating of the brigade officers followed by a day Windsor's annual town meeting, at which were chosen a longer list of town officials than ever before. New names appear in the record and familiar names were dropped, never to return. Deacon Hezekiah Thomson presided as moderator. Thomas Cooper, who for four years had been town clerk, was displaced by Ebenezer Curtis. Possibly this change may have been due to Cooper's having moved his residence to the west part of the township and having thus become less accessible to his townsmen. It is not apparent why so competent a town clerk should otherwise have been retired. To the chief office of supervisor the town elected Captain William Dean. Steel Smith became town treasurer, Ebenezer Curtis and Thomas Cooper the assessors, and Steel Smith and Elisha Hawley the overseers of the poor. The care of the highways was entrusted to Benjamin Bishop, Levi Stevens, and Richard Wait as commissioners, and to John Benjamin, Willard Dean, Joseph Thomson, Asa Worcester, and Samuel Cook as surveyors. The fence viewers were Jacob Hastings and Jeremiah Bishop. No less than four constables were chosen, viz., Roswell Smith, Samuel Cook, Thomas Cooper, and Elisha Hawley. Benjamin Bishop and Samuel Stow Savage were elected collectors, Caleb Stone, Samuel Patrick, and George Stow hog drivers, and Elihu Newell key keeper. To this list of purely local officers were added Ebenezer Hoisington and Ebenezer Curtis as a "Committee for the County."

¹ 1 *Gov. & Coun.*, 373.

Not of the standing of Zedekiah or Nathan Stone or Israel Curtis, not possessed of the personal ambition of Joab Hoisington or Benjamin Wait, not recognized as quite up to the local importance of Deacon Hezekiah Thomson or Thomas Cooper or even the once despised Captain William Dean, Ebenezer Hoisington was a dogged, stubborn hill-farmer and carpenter who lived out on what was later known as the Russell Farm. He might have been termed a "granger." Seldom elected to any town office, he did his duty as he saw it, was a strict member of the Congregational Church, was rarely if ever complained of for over-indulgence in liquor, but was sometimes lacking in control of his temper. He was illiterate to the extent of being uncertain of the way to spell his own name, was a Whig of the Whigs, and had definite ideas of the sort of democratic government he wished to live under. Although his election with Ebenezer Curtis as a county committee-man to succeed Thomas Cooper and Captain Dean probably meant at the moment nothing more than a community belief in rotation in office, it nevertheless afforded Ebenezer Hoisington the opportunity of his modest career and put him in a position which he loved. His name has been given no prominence by Vermont historians. To Williams it was merely a name: Graham probably never heard it: Ira Allen suppressed it. Yet, as will appear in this history, Ebenezer Hoisington was a factor of importance in shaping the destiny of the New Hampshire Grants.

The assembling of the Cumberland County Committee of Safety at Westminster for the ninth county convention on June 11, 1776, gave Ebenezer Hoisington his introduction as a member of a representative body. He and his Windsor colleague are recorded as present on the opening day. The autocratic Colonel Hazeltine no longer appeared as chairman, having been replaced in February by Benjamin Carpenter, of Guilford, who, in turn, was now replaced by Captain James Clay, of Putney. Hoisington received two committee appointments, one to complete the organization of the regiment of Minute Men and the other to inspect the Upper Regiment. To the latter committee Curtis also received an appointment.

Much of the business of the convention consisted of judicial

duties in deciding controversies, civil and criminal, in the county. The most important transaction of the three days' session was the preparation for an election of three county delegates "to set in Provincial Congress" pursuant to notification by hand-bill from New York "to choose delegates *and invest them with power to establish a form of government.*"¹ The italics are our own. They mark the words which gave Ebenezer Hoisington an idea. The County Committee then adjourned for one week to give to the inhabitants of the county an opportunity to vote for delegates to the New York congress. That "congress" was the convention which, pursuant to the recommendations contained in the resolves of the Continental Congress of May 15, established the constitution of the new State of New York, and in its list of members we find those shining names as John Jay, Gouverneur Morris, William Duer, Philip Livingston, and Robert R. Livingston.

Re-assembling at Westminster on June 20, the County Committee passed a formal resolution in favor of sending delegates to the New York convention. The next step was the appointment of a committee to canvass the votes for delegates, and then came the appointment of a committee "to make a *Draft of Instructions to the Delegates* if chose and to make a return to this com^{tee}," *i. e.*, to the whole County Committee.² On this sub-committee of three to draft the instructions to the delegates Ebenezer Hoisington's name came first, indicating that he probably was its chairman.³

The canvassers of the ballots for the three delegates found the vote to have been very light and unevenly distributed. Colonel Joseph Marsh, of Hartford, led the ticket with a total of 368 votes, while Captain John Sessions, of Westminster, and Major Simon Stevens, of Springfield, trailed with only 172 and 166, respectively.⁴ These three men, having received more votes than any other candidate, were declared elected.

¹ *Gov. & Coun.*, 348.

² *Id.*, 346.

³ NOTE: The writer observes that in the list of committee-men recorded as present at nine o'clock on the morning of June 20, the name of Ebenezer Hoisington is omitted. Unquestionably he appeared very soon thereafter, because the record shows his appointment to a committee that was required to act immediately. He was appointed to other committees at the same session.

⁴ *Gov. & Coun.*, 382.

Though the published record does not so state, we have Ira Allen's word for it that six or seven of the towns of Cumberland County protested against sending any delegates to New York.¹

On the afternoon of the following day, Ebenezer Hoisington's sub-committee brought in the draft of instructions for the newly elected delegates. Professing warm attachment to the cause of liberty, and hoping that the new government would preserve the civil and religious liberties of the people, the sub-committee ventured at the outset to observe that the people of the county were sensitive on these points in view of the fact that in the past the county had been imposed upon by having "Certain Foreigners put into High places of Emolument & Honour." With this thrust at the late Sheriff William Pater-son and the two last county clerks, Crean Brush and Samuel Gale, the instructions proceeded to prescribe several features of democratic government which the sub-committee thought desirable and with most of which, through the constitutions and statutes of our States, New Englanders are now familiar. Hoisington's draft is, in fact, one of the very earliest if not the first paper of local origin to set forth in concrete terms the governmental institutions under which the settlers on the New Hampshire Grants desired to live.

First, as a principle to underlie the establishment of the new government, Hoisington wished it understood that all civil power originated in the people. As an extension of that principle he would insist that the people, rather than the legislature, ought to choose the executive officers. Second, the delegates should strive for a code of laws which would place the liberty, property, and everything dear to the people on a firm foundation. This came pretty near to the familiar "Life, Liberty and the Pursuit of Happiness," and perhaps was quite as sound. A few of the most essential laws, the sub-committee thought, would be those for the support of schools and of ministers of the gospel. As a matter of precedence, if not of importance, the puritanical Hoisington would put the support of the ministers first. He would have a court of justice to try criminal cases. The judges of this court should not only be

¹ *Id.* See also B. H. Hall's *History of Eastern Vermont*, p. 270.

good and capable men, but should be residents of Cumberland County. Hoisington desired no judges sent in from outside to preside over the fate of Cumberland County prisoners and take away the fees or salaries of office, but he seems to have been willing that such judges should be appointed rather than elected. Civil causes he apparently would leave to local justices of the peace selected by the people. What is virtually the present Vermont method of choosing the grand and petit jurors Hoisington detailed at length and recommended.

The instructions then proceed to touch on certain desired reforms in legal procedure and in the regulation of fees for sheriffs and attorneys. The fact that the instructions went into such detail in matters pertaining to courts, judges, lawyers, and litigation showed how much of a burden to the people had been the bench and bar of the county from the time of the Grout riots in Windsor and Chester until the overthrow of the courts at Westminster. A frequent change in magistrates Hoisington thought would tend to prevent corruption and would "keep up that equality of mankind in which by nature we are all formed." On the latter point he was anticipating the Declaration of Independence by nearly a fortnight.

Although we have fairly summarized these instructions they became, as will presently appear, so vital a link in the chain of Vermont's history and foreshadowed so much of the substance of Vermont's organic law that we must give their text in full.

"Instructions for the Delegates of Cumberland County.

"Gent^{men}: Haveing received a hand bill from the Honourable Provincial Congress, Recommending to the Inhabitants of this county to Chuse Delegates & Invest them [with] Power to Establish a form of Government, &c., We, the Committee for this County, being warmly attached to the Noble Cause of Liberty, and ardently Desirious to have the foundation of Government so laid that the Liberties of the People both civil and religious may forever remain sacred and Inviolat, we think it Our Indispensable duty to give you the following Instructions, and reposing the Highest Confidence in your

Honour & Integrity, do rely Upon it that you will to the Utmost of your power Endeavor to Carry the same into Execution. We trust the Honourable Congress will be Very far from passing Censure on us for being thus Jealous of our Liberties, Especially when they Consider that in time past this County has been much imposed upon in haveing Certain Foreigners put into High places of Emolument & Honour in this County, to the Great Grief of Virtues and Honest men.

"1st. We instruct you to use your influence to establish a Government in this Colony agreeable to this maxim, (viz.,) that all Civil Power (under god) is Originaly in the People, and that you in no instance in your publick Capacity will do any thing to abridge the people of this fundamental right. We furthermore beg leave to say that in Our Opinion the representatives duly Chosen in the several Countys in this Colony, when Convean^d at New York, to all intents & purposes have full power of Legislation, & that it would greatly abridge the People of their rights should the representatives presume to make Choise of a Governor, Lieut. Governor, &c., To Act and Transact business independent of the people.

"2^d. That you use your best influence in Congress to adopt a Code of Laws whereby the Liberty, Property & every thing dear to the Inhabitants of this Colony & America in General shall be founded on a permanent Basis—a few of which Laws we Humbly beg leave to suggest might be made or enacted, (viz.,) Laws for Establishing Religion & Litriture—that ministers of the gospel might be supported and Schools set up, which must have a Tendency to promote Virtue and Good Manners.

"3^d. We think it would much Conduce to the happyness of this County to have a Court of Justice as soon as may be properly organized, to take Cognizance of all Criminal actions, at the same time we desire that men of Character, integrity, Knowledge and Virtue who belong to Our Own County might sustain the offices in such an Important Department. The Ancient Tryal by Jury we have a great Veneration for; it is a Noble Barrier against Tyrany. In Order that our future Courts may be supplied with Grand Juriors we humbly request that the Honourable Congress would adopt the follow-

ing method for this County, (viz.,) that Each Town thro' the County at their Annual Meetings shall Elect their proportion of men who shall serve as Grand Jurors the Insuing Year, and that their names shall be Properly Returned in the Clerk's Office, in order that the Jury when so Chooosen may inform the advocates (who shall prosecute Criminal Actions) of all misdemeanors in the County passing within their Knowledge; the pette jurors in like manner we would be glad might be Chooosen Annually, and that their names being enroled may be returned in the Clerk's Office, and when so returned, may be drawn by lot for the service of the insuing year. The Gentlemen of the Law (if they should be thought necessary) we hope may be men of integrity, Learning and Abillity. In a particular manner we desire and insist on it that no Freeholder or men of Interest in a Civil Action on the first process shall be apprehended by Capias, but that they may be summon^d according to Ancient Usage Excepting Under Certain Circumstances when there is not a sufficiency of Estate to answer Debt and Cost; that Constables as well as sherrifs might have power to serve all processes; that all Deeds may be recorded by the Town Clerk in Each town; that Attorneys fees and all Other Exhorbitant fees might be lower^d and reduced to the Standard of Justice. Lastly, we beg leave to suggest that in Our Opinion a frequent Change of Magistrates Tend to prevent Corruption and keep up that Equallity of Mankind in which by nature we are all formed; therefore we humbly request we may be Indulged in this particular: we desire that Each Town in this County might nominate their Own Justices, and that they might not be appointed without such Nomination. That Justice, Religion & Virtue may prevail in this Colony, & that Pease & Tranquillity may be restored thro America is the sincer desire of the Committee of Safety for Cumberland County.

"P.S. We desire that a Court of Probate might be Established in this County."¹

Nowadays, as we all know, instructions to delegates, like party platforms, are soon forgotten or ignored. Something both interesting and unusual saved Ebenezer Hoisington's code of instructions from a similar fate. Almost directly after

¹ 1 *Gov. & Coun.*, 348-350.

the appointment of Hoisington's sub-committee Charles Phelps,¹ of Marlborough, who seems not to have been a member of the county committee, presented to that body the draft of a letter which he wished the committee to send to the Provincial Congress. This proposed letter alluded to the instructions which Hoisington's sub-committee were then writing, and it conveyed an implied threat that, if the frame of government to be established for the new State of New York should not conform to the specifications which Cumberland County's Committee of Safety were embodying in the instructions to their county delegates, the people of the county would feel at liberty to secede. While the language of the letter did not literally go to that extreme, it was so interpreted by the New York Convention, and, later, by the Cumberland County Committee. Although Charles Phelps's sensational proposal might be characterized as a piece of impudence and arrogance, it could not be dismissed as unimportant. Hence we find in the record of the county Committee of Safety: "Voted to deliberate on a piece by Esquire Phelps."

We have the hearsay testimony of John Taylor, who visited Cumberland County late in the autumn of 1776, that not all of the members of the county Committee of Safety knew of Charles Phelps's proposal or that it was finally signed by the chairman and sent to New York along with the instructions. In view of the fact that three of the county committee-men dissented from the action of the committee and that the chairman, James Clay, is said to have deprecated the move, there can be little doubt that the wisdom and propriety of sending the Phelps letter were fully debated by the whole county committee, and that if the minority could have won more support among the members they would have done so. So it was formally decided on June 21 to send to New York's convention this remarkable threat:

"Upon the receipt of hand bills from you sent to us, purporting the expediency of instituting civil government accord-

¹ Charles Phelps, it will be remembered, was chosen with Colonel John Hazeltine and Ethan Allen as a member of the committee to petition the Crown for separation from New York after the Westminster Massacre.

ing to the exigencies of the County, the major part of the people have agreed thereto, and have elected their delegates, and empowered them with their authority, to agree with you in forming a mode of government independent of the Crown, in the most mild, just, and equitable manner possible, for regulating their internal police, and for the preservation of the rights, liberties, and property of the people. This power is subjected, nevertheless, to those regulations, conditions, and restraints herewith transmitted you by the hands of the delegates of this county; to all which they are by their constituents in the premises, limited and restrained in such manner, that if they break over and violate those sacred instructions herewith sent you in behalf of us and our constituents, in matters of such infinite importance and delicacy, the county committee declare, in behalf of the free, patriotic people thereof, that they mean to and do hereby resolve, to reserve to themselves the full liberty of an absolute disavowance thereof, and of every clause, article, and paragraph of such an institution."

The real importance of the Phelps letter lies in the passage just quoted. Historians, however, have dwelt more on the subsequent passages which revealed one of Charles Phelps's hobbies that almost had become an obsession with him. He was a man of Massachusetts origin and for years he labored for a union between Massachusetts Bay and the New Hampshire Grants. It is probable that in this plan of his lay the whole motive of the letter; yet it is clear that according to the interpretation put upon his composition by his colleagues on the New Hampshire Grants and by the convention in New York City, the vital points were the lack of a spirit of allegiance and the threat of revolt and secession. According to John Taylor, Phelps was "the oracle in them parts." By this we should not be misled. For while Phelps was of good family, was possessed of education beyond most of his neighbors, and was esteemed by them for his fluency and verbosity in written composition, he was of such eccentricity that his actual leadership amounted to little. It was because of the intrinsic merit of his letter in wording thoughts which appealed to the restless settlers that they adopted his composition as their

own. At the same time the balance of his letter deserves its place in history and here it is:

“Also, it is hereby acceded to, and fully meant and intended by the good people of the county, that they, notwithstanding this compliance with the requisition of the said handbills above mentioned, so directed to us for the purposes aforesaid, have fully and absolutely reserved to themselves and their heirs, &c., the full liberty of pursuing their former petition in behalf of the people, prepared some years ago, and referred to the great and General Assembly of the ancient, ever respectable, and most patriotic government of the Massachusetts Bay province, that the whole district described in the said petition, may be hereafter reunited to that province, and reserving to themselves also the right of offering their pleas, arguments, and proofs, in full, to effect a reunion thereof, to that ancient jurisdiction, for those important reasons to be adduced when, where, and before whom the parties concerned shall be admitted to offer the same.”

The deliberations on the Phelps letter were finished on the morning of June 21.¹ In the afternoon Hoisington's sub-committee reported the code of instructions, which was, “after being read sundry times, Voted Paragraff by Paragraff & accepted to be the Instructions for our Delegates Chooosen to go to New Y^ork to set in provincial Congress.”²

The session of the Committee of Safety lasted through the morning of June 22. Some local litigation received attention, the credentials of the delegates to New York were signed, and various sub-committees were appointed. Ebenezer Hoisington secured appointment to a committee to write a letter to Abraham Ten Broeck, of New York. He was also elected to another committee to assist the regimental colonels in enforcing the resolves of the Continental Congress in Cumberland County. Windsor's Town House was designated as the place of a meeting, to be held on June 26, at which the commander of the Upper Regiment and one “sub-committee-man” from each town “in the same regiment” should choose a captain

¹ 1 *Gov. & Coun.*, 347.

² *Id.*, 348.

and two lieutenants to enlist a company for service in Canada.

No record of proceedings at Windsor on June 26 has come to light nor is it known that the intended meeting actually took place. There was a long "special meeting" of the Cumberland County Committee of Safety at Westminster, from July 23 to 26, devoted mainly to judicial matters.¹ As Mr. B. H. Hall points out, the functions of the County Committee of Safety, as well as those of the separate town committees, were executive, legislative, and judicial.² One sees from an examination of the record in *Governor and Council* how appropriately the Windsor town clerk had described Windsor's first Committee of Safety as "a committee to regulate and decide controvercies in the town." The spirit of litigation on the New Hampshire Grants was flourishing in 1776. We of Windsor know how it has survived.

¹ 1 *Gov. & Coun.*, 351-355.

² B. H. Hall's *History of Eastern Vermont*, p. 263.

CHAPTER XXXI

WITH WHOM TO ASSOCIATE

THE special meeting of Cumberland County's Committee of Safety had hardly adjourned when delegates from the towns on the west side of the Green Mountains assembled for a convention at the house of Cephas Kent in Dorset. Their main object was to hear and take action upon the report of Heman Allen's visit to the Continental Congress. The notice of this meeting, while warning only inhabitants on the west side of the Green Mountains to attend, extended an invitation to all the towns on the Grants. Since it bears date June 24, it was presumably posted for a month. Besides mentioning Heman Allen's expected report, the warning specified as agenda the ascertainment of the delegates' preferences as to "associating" with the Province of New Hampshire or doing duty with the Continental troops only as members of the district. The concluding article of the warning or warrant covers "any other business . . . for the safety of the liberties of the Colonies in General and the N. Hampshire Grants in particular."¹

Pursuant to the warning forty-nine delegates gathered at Cephas Kent's on the morning of July 24. They devoted the first day wholly to Heman Allen's report, the substance of which we have heretofore recited. Doubtless the one important item of his narrative was his story of the recommendation made to him by some members of the Continental Congress and others that the inhabitants of the Grants should not "connect or associate with the honorable Provincial Congress of New York or any Authority derived from, by or under them, directly or indirectly, but that said inhabitants do forthwith consult suitable Measures to Associate and unite the whole of the inhabitants of said Grants together."² That Heman Allen and perhaps other of the settlers got some such advice from members of the Continental Congress and others

¹ 1 *Gov. & Coun.*, 14.

² 1 *Gov. & Coun.*, 20.

at some time during the year 1776 is pretty clear. Not only is it indicated in the *Life and Services of Samuel Adams*,¹ but a Mr. Seeley (perhaps Abner Seeley, of Thetford) reports having conferred with Colonel Smith, of Philadelphia, and Roger Sherman on the possibility of making a separate state out of Cumberland and Gloucester counties;² while, according to John Taylor, in his letter dated November 3, 1776, there had come from Samuel Adams to Seth Warner the specific advice that the whole of the Grants ought to petition the Continental Congress for separate statehood.³

At this Dorset convention of July 24 were such characters as Jonas Fay, Joseph Bowker, and Thomas Chittenden. There was also present, as a delegate from Colchester, Ira Allen. Early in the year Ira Allen, the youngest brother of Ethan and Heman, having had his fill of a soldier's life in Canada, returned to the New Hampshire Grants with the purpose, as he said, of devoting himself to the support of the New Hampshire land titles.⁴ He says that he was among the first to project the idea of having a separate state.⁵ In the course of time he became a leader in that movement. With as much education as his brother Ethan, quite as unconcerned over means or morals, equally inclined to boast, with more appetite for politics and less for war, he had his eldest brother's faculty for writing and soon gained the recognition of the settlers as one of their dependable brief-writers and advocates. A spiritual side and that common attribute called "a New England conscience" seemed as lacking in Ira Allen as in Ethan. This circumstance, perhaps more than any other, accounted for that respectable minority of Vermont patriots who never fully trusted the Allens or their intimates.

Less noted, but, for the occasion, highly important members of the Dorset Convention of July, 1776, were Josiah Fish and Samuel Fletcher, of Townshend. The latter was the son-in-law of Colonel John Hazeltine, who probably was instrumental in sending these two townsmen of his across the Green Mountains. In the pervading spirit and conception of most Vermont historians, Mr. E. P. Walton observes that to Towns-

¹ 2 *Life and Services of S. Adams*, 358-359.

² 4 *Doc. Hist.*, 555.

³ 2 *Jour. N. Y. Prov. Cong.*, 317.

⁴ 3 *Gov. & Coun.*, 418.

⁵ *Id.*

hend belongs the honor of sending the first delegates from the east side of the Green Mountains to attend a convention on the west side.¹ Assenting to this, we should add that the convention which assembled at Dorset on July 24, 1776, was the first on the west side of the Green Mountains to have the honor of being attended by delegates from Cumberland County.

The importance of these two delegates lay largely in the fact that one of them—Samuel Fletcher—was a member of the Cumberland County Committee of Safety and was fresh from the committee's session of June 20 to 21, which had adopted, signed, and forwarded to the New York Provincial Congress the Hoisington code of delegates' instructions and the Phelps letter, with its threat of secession. Knowledge of the defiant stand of Cumberland County's Committee of Safety thus came, first-hand, through Fletcher to the delegates assembled at Dorset, and must have encouraged, stimulated, and emboldened them in the secret measures which they decided to follow.

We use the term "secret" advisedly and for the purpose of bringing out an important distinction to be noted at this period between the meetings in Cumberland County and those on the west side of the Green Mountains. While all these meetings were local or sectional, those in Cumberland County were distinctly county organizations in association with other similar organizations of the Province, and affiliated more or less directly with the central convention at New York City. The meetings of the settlers on the Grants to the west of the Green Mountains bore no such relation either to the county or provincial committees or conventions, made no regular reports to other bodies, and were more in the nature of private proceedings. The modern American catch-words, "open covenants, openly arrived at," had not then arrived to fascinate, ensnare, and embarrass.

At this time Deacon John Sessions and Major Simon Stevens, as Cumberland County's delegates to the New York Provincial Congress, had been at their post of duty for a fortnight. They had arrived in White Plains on July 9 and had

¹ 1 *Gov. & Coun.*, 24.

presented their credentials, and, presumably, the Hoisington code of instructions and the Phelps letter. Their colleague, Colonel Joseph Marsh, who had been in the Provincial Congress until late in June, reached White Plains on July 22.

Under the circumstances and with the record of the Declaration of Independence spread in full in the public prints, the Dorset convention of July 24 and 25, 1776, was less radical in action than one might have expected. It is true that after voting to "pass over" the subject of associating with New Hampshire, the delegates did vote almost unanimously "that application be made to the inhabitants of said Grants to form the same into a separate district." Of course, such a vote carried potentialities both patent and latent, but one is hardly warranted in the belief that the resolution itself went further than a determination to sound the sentiments of the settlers. Pursuant to that determination, the convention appointed Jonas Fay, Heman Allen, William Marsh, Samuel Fletcher, and Josiah Fish a committee to treat with the settlers on the east side of the Green Mountains, and to exhibit the proceedings of the convention.

"Associating" with New Hampshire or with New York or by themselves had, among the settlers, a specific meaning at that time. It meant subscribing to an agreement to defend the liberties of the united colonies against Great Britain. Whether it would be altogether safe, in view of the question of land titles, to sign an association agreement in the form circulated by New York authority and as acknowledged citizens of that Province or State was very doubtful. To subscribe to New Hampshire's association agreement seems to have been attractive to but few. Some towns, as, for example, Townshend, Springfield, and Weathersfield, in the first enthusiasm of the Revolution had subscribed to forms of association circulated by New York. But on reflection the more prudent course now seemed to be the signing of a form of association which would not commit the inhabitants of the Grants to permanent or even temporary union with any one of the thirteen revolting colonies. Therefore the Dorset convention formed and subscribed to the following "Association," which, as the members believed, would sufficiently preserve their rights as

land owners under New Hampshire titles while pledging support to the Revolutionary cause:

“This Convention being fully sensible that it is the Will and Pleasure of the honorable the Continental Congress that every honest Friend to the Liberties of America, in the several United States thereof, should subscribe an Association, binding themselves as Members of some Body or Community to stand in the defence of those Liberties; and

“Whereas it has been the usual custom for individuals to associate with the Colony or State which they are reputed members of: Yet nevertheless the long and spirited Conflict, which has for many years subsisted between the Colony or State of New York and the inhabitants of that District of Land Commonly Called and known by the name of the New Hampshire Grants, relative to the title of the Land on said District, renders it inconvenient in many respects to associate with that Province or State, which has hitherto been the sole reason of our not subscribing an Association before this.

“The better therefore to convince the Publick of our readiness to join in the common Defence of the aforesaid Liberties, We do Publish and Subscribe the following Association, (viz.:)

“We the subscribers inhabitants of that District of Land, commonly called and known by the name of the New Hampshire Grants, do voluntarily and Solemnly Engage under all the ties held sacred amongst Mankind at the Risque of our Lives and fortunes to Defend, by arms, the United American States against the Hostile attempts of the British Fleets and Armies, until the present unhappy Controversy between the two Countries shall be settled.”¹

Forty-nine delegates subscribed to this form of an “Association” which differed in but one material particular from other associations that had been signed throughout the colonies and even upon the New Hampshire Grants during the previous year. The only peculiarity of this association rested in its allusion to the land title dispute. It contained no declaration of independence from New York and no threat of secession. It did, however, seek to make clear the opinion of

¹ 1 *Gov. & Coun.*, 21-22.

the subscribers that complete union with New York was impracticable during the pendency of the land controversy.

Following the adoption of this form of association, the Dorset convention passed a resolution of a minatory nature and of a type which had long been in vogue on the west side of the Green Mountains, for the purpose of intimidating neighbors and colleagues. This resolution denounced as "enemies to the Common Cause of the N. Hampshire Grants" any inhabitants of the district who should in the future sign an association other than in the form just prescribed. The attitude thus displayed was not unlike that of unionized strikers who, through exhibition of hostility, deter other workmen from taking the jobs which the strikers themselves have given up.

The convention adjourned on July 25 to meet again at the same place on September 25.

CHAPTER XXXII

THE RANGERS

It is best at this point to turn to the activities of the delegates in the New York Provincial Congress. Owing to the exigencies of the war, the place of meeting on July 9 was at Westchester County Court House at White Plains. On paper the New Hampshire Grants had fair representation. Colonel Joseph Marsh, Major Simon Stevens, and Captain John Sessions were certainly competent to look out for Cumberland County's interests. Gloucester County had chosen the best possible representative in General Jacob Bayley who had Colonel Peter Olcott as his colleague; Charlotte County had Alexander Webster, Doctor John Williams, and the distinguished William Duer; while Albany County had many delegates. Actually, the New Hampshire Grants were represented only by the members from Cumberland, for Colonel Olcott was in attendance scarcely more than a week, General Bayley was too much occupied with the war to attend until the very close of the session, and the delegates from Albany and Charlotte Counties were identified only with the region which is now the State of New York.

Almost the first act of the convention was to listen to the Declaration of Independence, which John Hancock, as President of the Continental Congress had sent up from Philadelphia. Under the inspiration of that stirring document, which they spread in full upon the records, the delegates at White Plains voted to change the title of their Provincial Congress to "The Convention of the Representatives of the State of New York," and to fix upon July 16 as the day when they should begin the work of framing a State Constitution, as the Continental Congress had advised.

Military measures occupied at first most of their attention. The exposed condition of the counties on the New Hampshire Grants made strong appeal and accordingly munitions were

voted. On July 23, which was the day following Colonel Marsh's arrival, the Convention voted to raise troops to protect the northeastern region from Indian attack. For Cumberland and Gloucester Counties the convention ordered the enlistment of a force of two hundred and fifty-two rangers to be under the command of a major. The record of the convention indicates that our Windsor settler, Joab Hoisington, was on hand at White Plains and was still "glowing with true martial ardor," for, on the morning of July 24, on the recommendation of the delegates from Cumberland County, he received an appointment as major of the Rangers, for which office the commission was issued in the afternoon of the same day with orders that it be "delivered to the said Joab Hoisington." Certified copies of the resolves of the convention covering the raising of the troops were ordered "delivered with all despatch to the respective committees of the counties"; and one week later, on July 31, Major Joab Hoisington in great impatience burst in on County Chairman James Clay at Putney, with a demand that Cumberland County's Committee of Safety must assemble at Windsor on August 6 in joint session with Gloucester's committee for the purpose of choosing captains and lieutenants for the Rangers.

Whether Captain Clay was annoyed that the war finally had spread to Putney, or whether Major Hoisington's impetuosity and insistence were unpleasant, there developed lasting friction between the two. Clay protested that one week's notice to Cumberland's twenty-two towns, some of which were very remote, was quite too short, while as for Gloucester it was utterly out of the question. Hoisington announced that he would be responsible for notifying Gloucester's County Committee, and on this promise, practically incapable of fulfilment, succeeded in persuading Clay to warn the committeemen of Cumberland to be on hand at the Town House at Windsor on August 6. The unhappy chairman of the County Committee had been Clay in the hands of potter Ebenezer Hoisington and secessionist colleagues at Westminster on June 21: he was again Clay in the hands of potter Joab Hoisington at Putney on July 31.

Of course, the meeting of the Joint Committees of Safety

of Cumberland and Gloucester Counties at Windsor lacked a quorum. One account says that only ten committeemen attended; another account puts the number at thirteen. Chairman James Clay was on hand protesting, but with his usual ineffectiveness, that business could not be done without a quorum. Major Joab Hoisington, although not a committeeman, was on hand as the most interested party and full of determination that, quorum or no quorum, the nomination of officers must take place. Sometime during the day, as appears by the affidavit of Benjamin Whitney, both Clay and Hoisington were at a "publick house" and seated on opposite sides of a table. To Windsor readers this should suggest that most famous of *all* Vermont's "public houses"—the "Old Constitution House," in which, according to tradition, there sat but eleven months later the immortal convention that founded the State of Vermont. Here on that sixth day of August, 1776, Benjamin Whitney heard Clay in a very low voice ask Hoisington's permission to see a copy of the resolutions calling for the raising of troops. Whitney doubted if Hoisington heard. At all events Hoisington did not comply, and his supposed refusal formed the basis of a complaint which Hoisington subsequently was called upon to answer before the New York State Convention.

Late in the day Chairman Clay capitulated. He had had an all-day wrangle with the overbearing major, who was fighting on his old home grounds, with the probable support of his uncle, Ebenezer Hoisington, and Ebenezer Curtis—the two latter present as Windsor's county committeemen—and, all three of them, early and staunch members of the Congregational "Church of Christ in Cornish and Windsor." It was a formidable group, even without the help of Benjamin Emmons and John Strong, of Woodstock, Israel Burlingame and William Upham, of Weathersfield, Jonathan Burk, of Hertford (Hartland), and Stephen Tilden, of Hartford. That the major lacked the support of some of these, as well as that of others among the delegates is most likely. But there were present, besides the committeemen, several Windsor citizens who in the potent rôle of office-seekers must have lent that helpful pressure for which in such capacity Vermonters have since

become renowned. Here we find Benjamin Wait, a candidate for the office of Captain of the Rangers; Elisha Hawley, a candidate for the office of Lieutenant of the Rangers; William Hunter, a candidate for the job of sergeant. With the friendly aid of such *amici curiæ* and with the lubricants obtainable at the "publick house" of landlord Jacob Hastings or Elijah West there could have been but one outcome for Major Joab Hoisington's fight at Windsor. What was a little thing like a lack of a quorum among friends?

That evening saw some new military officers at Windsor: Captain Benjamin Wait and Lieutenant Elisha Hawley. The record of the day's session of the joint committees closed with a resolution to subscribe to an association forwarded from New York and to take proceedings against those who were "Refusers."¹ The nomination of officers for Gloucester was deferred to a meeting of the Gloucester Committee of Safety, to be held at Thetford on August 11. It was a good day's job that Major Joab Hoisington had done; and if he turned in at Windsor's "publick house" that night with a good deal more than a soldier's normal allowance of rum aboard, who was there then or who is there now who would not forgive him? Even a twentieth-century prohibitionist should have a heart for the spirit of 'seventy-six.

The next morning found Major Hoisington up and doing. He waited upon Chairman Clay, whom he seemed to regard by this time not only as his servant but as a quasi prisoner of war, and demanded that he sign warrants certifying to the choice of the several officers. Again Clay hemmed and hawed and again reluctantly yielded. Major Hoisington followed up his triumph by recruiting Corporal Matthew Hammond and Privates Solomon Emmons, Samuel Stone, and Ebenezer Howard. These men, with Sergeant William Hunter, Sergeant Samuel Messer, and Privates Eldad Hubbard, Zebina Curtis, Asa Smead, Thomas Hunter, David Hunter, and Ezekiel Hawley, who were recruited a little later, were among the Windsor men in Captain Wait's company in Hoisington's Rangers. The liberal bounty or bonus paid at enlistment to each non-commissioned officer and private, and the prospect

¹ 1 Gov. & Coun., 355-356.

of big-game hunting, with an Indian or two as the bag, made service in the Rangers attractive.

It would seem from the testimony of Chairman Clay that all the committeemen remained in Windsor overnight. Perhaps the cause was not the darkness of the roads and paths to their homes. Three important visitors were on their way to Windsor, if they had not already reached Windsor the night before. At all events they were there on August 7, and the committeemen were interested. These visitors were Heman Allen, Doctor Jonas Fay, and William Marsh, who had come as members of the committee appointed at Dorset on July 25 to treat with the inhabitants on the east side of the Green Mountains relative to an association for the whole of the New Hampshire Grants.

Chairman Clay made a valuable report of his interview with Heman Allen. It is preserved in volume 4 of the *Documentary History of New York*, at page 556. "On the 7th of August last," wrote Clay, "Heman Allen, Doctor Fay and Col. Marsh came as a committee from the other side of the Green Mountains to Windsor, when the committees of Cumberland and Gloucester were setting at that place, and begged to be admitted before the committees." This request was soon granted, and thereupon the three guests proceeded to read "several papers." Some of these papers, Clay asserts, "ascertain the boundaries they proposed for a New State."

The proposal for a "New State" went beyond the literal meaning of any measure adopted at Dorset the month before. That it had not been discussed at Dorset we cannot assert. There certainly had been a vote to solicit the settlers to join in forming the Grants into a "separate district"; but Heman Allen's committee was specifically empowered only (first) to solicit the East Side inhabitants to join in an "association," (second) to exhibit a record of the Dorset proceedings, and (third) "to do Business as above." Allen and his colleagues evidently construed their power "to do business as above" to include the promotion of the New State idea. Here, then, at Windsor, on August 7, 1776, we find through reading James Clay's narrative what is possibly the first mention on Vermont soil of the word "State" as applied to an organization of the New Hamp-

shire Grants, although Mr. E. P. Walton has taken the liberty of inserting, without the slightest authority, after the word "District" the words "or State" in brackets in the record of the Dorset convention of July 24.¹ The word does not appear in the manuscript record of Doctor Jonas Fay.²

Clay proceeds to relate that the Dorset committee of three then invited the committeemen of Cumberland and Gloucester "to sign a paper." Clay does not identify the "paper," but it was probably the association agreement which had been drawn up at Dorset. There is room, however, in what follows for an inference that this paper may have been a petition to the Continental Congress.

As a further means of promoting their projects, Allen, Fay, and Marsh stated that "they" had consulted with several members of the Continental Congress, who advised them to collect the sense of the people on the subject. At this point Clay, who was strongly averse to anything as strenuous or bold as breaking with New York, interposed a question: Did Allen suppose "the Continental Congress would take up the affair at this time in case the people did sign?" To this Allen answered in the negative; but he hastened to add that some members of the Congress advised them to petition because, as Allen said, "if we submitted to the mode of Government now forming in the State of New York we should be tied so that we could not get off at a future day." That Heman Allen's answer was shrewd and had force, and that it must have had an effect on such radicals as Ebenezer Hoisington and some of the other committeemen of secessionist tendencies cannot be denied.

Clay omitted to relate—possibly because the subject was not specifically touched upon in his presence—that Heman Allen and his fellow-agitators urged that each town in Cumberland and Gloucester should hold a meeting to consider the New State idea and should in any event send a representative to the adjourned session of the Dorset Convention. How thoroughly this proposal was circulated does not appear. Though Mr. B. H. Hall, in his *History of Eastern Vermont*,³ gives the

¹ 1 Gov. & Coun., 20.

² *Early Vermont Conventions*, p. 43

³ B. H. Hall's *History of Eastern Vermont*, p. 269.

impression that most of the towns were moved to take action either for or against, he cites but three cases. The record of the Dorset convention of September 25 shows no response whatever from any of the towns in Gloucester County, and lists responses from only ten towns in Cumberland. To the list we should add that Chester was favorable to the New State idea, that Halifax was probably opposed, and that neither was represented at Dorset.

Ebenezer Fuller, of Rockingham, was one of the committee-men attending at Windsor on August 6 and 7. So much was he impressed with the project of erecting a separate State out of the New Hampshire Grants that shortly after his return to his home we find a town meeting called at Rockingham to consider the subject. The record says the meeting was "legal" and "full." That energetic radical, Doctor Reuben Jones, did much of the talking, and with such persuasiveness that the town voted "to associate with inhabitants of the district of land called the New Hampshire Grants," to send two delegates to Dorset for the convention of September 25, and to instruct those delegates "to use their best influence in said Convention that proper measures be taken to Get that District of Land commonly called and known by the name of the Newhampshire Grants formed and incorporated into a separate District or State. . . ."

This action of Rockingham's, taken on August 26, was unequivocal. The vote of Halifax was equally definite to send *no* delegate to Dorset. Windsor took a stand between the two. Windsor had had the benefit of the full force of the Dorset committee's eloquence, but still had to reckon with Colonel Nathan Stone. There is little doubt that he had no faith in nor sympathy for a plan to separate the New Hampshire Grants from New York and launch them as a little government of their own. He had been Windsor's leader in stormy times and in difficult places. He had made his townsmen secure in their land titles. He was the largest property owner in town. It was therefore probably due to Colonel Stone's influence that at the town meeting, called on September 20 and presided over by Joel Ely, the town merely voted to send Ebenezer Hoisington as a delegate to attend the Dorset con-

vention on September 25, and avoided committing the town to any scheme such as Heman Allen had broached. Could Colonel Stone have prevailed on Windsor to take a firm stand, like Halifax, against sending a delegate he would probably have done so.

CHAPTER XXXIII

WINDSOR'S DELEGATE AT DORSET

IN choosing Ebenezer Hoisington as Windsor's delegate to Dorset, the town selected the man who was equipped as far as acquaintance and convention experience were concerned. Politically, and especially on the question of loyalty to New York, Colonel Stone could hardly have found among his townsmen another who entertained views so opposed to his own.

At Dorset, Ebenezer Hoisington found himself in the company of forty-four alleged delegates from the west side of the Green Mountains, and ten delegates besides himself from the east side. In attendance, but not as delegates, were Colonel Seth Warner, Captain Heman Allen, and, probably, Captain Abner Seeley. Although the convention styled itself as an adjournment of the "general" convention of the July preceding, the presence of several new delegates from west-side towns that had been represented by other men at the last session, and the presence for the first time of considerable east-side representation almost rendered this convention of September 25 a new body. In comparison with the preceding session it had become "general" if a convention on the Grants could be called "general" which lacked a single elected delegate from Gloucester County and left one-half of Cumberland County unrepresented.

Among the delegates whom Ebenezer Hoisington may then have met for the first time were Joseph Bowker from Rutland, Ira Allen from Colchester, and Thomas Chittenden from Williston. On previous occasions he had met William Marsh, of Manchester, Doctor Jonas Fay, of Bennington, Doctor Reuben Jones, of Rockingham, and Colonel Benjamin Carpenter, of Guilford. The last appeared not only as a delegate from Guilford, but is recorded also as a delegate from the town of Halifax, which had expressly voted to send no delegate whatever. Another irregularity in representation is evident in Bennington's delegation, which was made up of no less than six men.

At the previous session Bennington had sent Doctor Jonas Fay, Simeon Hathaway, and Captain John Burnham, junior. They were on hand again in September, but accompanied by Nathan Clark, Colonel Moses Robinson, and Major Samuel Safford. Townshend, which had been the only east-side town to send delegates to the July convention, was now unrepresented. Windsor was the most northerly of the east-side towns to send a delegate. Whatever may be said of the character and attainments of the delegates from the west side of the Mountains, the delegates from the east side, at least, were hardly up to the average of the best citizenship in the Connecticut Valley towns.

The first day's session included a reading of the minutes of previous west-side conventions "to give light to those Gentlemen Delegates from the east side of the Green Mountains in particular and the whole in general." It seems somewhat singular that after reading these minutes the convention should have garbled one of the most important of the resolutions passed on July 25. Yet that is precisely what was done on the second day of the September session. The resolution of July 25, which had favored an application "*to the inhabitants of said grants* to form the same into a separate district" was again brought up for discussion and in quotation marks was made to read as a resolution passed on July 24 to the effect that "suitable application be made to form that District of Land, commonly called and known by the name of the New Hampshire Grants, into a separate District." No record of previous minutes shows a resolution to have been passed in that form on July 24. The subject had been put over until July 25, and the resolution that was finally passed on July 25 contained the words which we have just italicized, and which gave an aspect to the plan quite different from that which the minutes of the September convention purported to give. However, it is not worth while to be hypercritical. The delegates were taking chances at best. In a body engaged in plotting secession exact truth is perhaps too much to expect.

Pursuant to the above resolution, thus recast, the convention appointed a committee, of which Colonel Benjamin Carpenter was chairman, to form a plan for future proceedings.

It was a businesslike committee: it made its report on the morning of the day it was appointed. This committee on programme was remarkable for another reason: two of the members, viz., Colonel William Marsh, of Manchester, and Colonel James Rogers, of Kent (Londonderry), inside of a year deserted to the British, while at least two of the members, viz., Ira Allen and Colonel Thomas Chittenden, were among those eminent Vermonters who were parties to the ostensibly traitorous correspondence with General Haldimand, the commander of the British forces in Canada in 1780 and subsequent years. The remaining three members of the committee were Chairman Carpenter, Doctor Reuben Jones, and Doctor Jonas Fay.

The committee's idea of a programme was one that should involve the signing of what was called "a covenant or compact" by the members of the convention on behalf of themselves and their constituents, whereby all should agree to be bound by such rules as the majority might impose. Though the context of the committee's report is not altogether clear, it seems to have been the intent of the committee on programme that the rules above referred to should deal with the seven following topics: First, the regulation of the militia with a view to furnishing troops to the extent of the ability of the Grants for the defence of the liberties of the United States of America, but subject to the proviso that militia officers theretofore appointed by New York should carry out orders already received from the military authority of New York. Thereafter the militia was to be under the control of the convention. The proviso appears to have been an afterthought—perhaps on the suggestion of Colonel Benjamin Carpenter, who, as colonel of the Lower Regiment in Cumberland County, must have had some compunction against deserting his command in the face of the enemy. Second, a return or census of the inhabitants of the Grants to be reported to the Continental Congress. Third, a pledge of willingness to abide by the decisions of the Continental Congress. Fourth, the appointment of a committee to wait on the Continental Congress with such "petitions or directions" as the Dorset convention might agree to send.

Having thus paid due obeisance to the Continental Congress, the committee on programme proceeded to touch the meat of the matter as follows: Fifth, "To make suitable provisions that the whole of the inhabitants on S^d N. Hampshire Grants on each side of the Green Mountains be notified and have proper opportunity to join and coincide with the measures taken and to be hereafter taken for the benefit of forming S^d District into a separate State." Here we have definite allusion to the ultimate goal and definite admission that the Grants were not then fully united or prepared to attain it. Next, as the sixth article of the programme, the committee showed its militancy by reciting that the ancient dispute over land titles had not subsided and recommending that "we do therefore vote that any Law or Laws, Direction or Directions we may (*for the time being*) receive from the State of N. York will not in future be accepted neither shall we hold ourselves bound by them." The seventh and last item was a recommendation that tories be more sharply looked after.

Of all the steps advised by the Committee on Programme, the two most striking were, of course, the efforts to unite the whole of the Grants to the support of the New State project and the temporary resistance of New York law. Why a permanent instead of a provisional resistance was not prescribed is not explained, but perhaps the reason lay in a doubt as to the success of securing the united support of the inhabitants in the New State idea. As a whole, the programme was so strong that after its approval by the convention, one is rather surprised at the comparatively weak "covenant or compact" which the delegates next proceeded to frame. Evidently there was dissension immediately after the adoption of the report of the Committee on Programme. A recess was ordered until the afternoon, and the entire afternoon's session resulted only in the appointment of a committee to prepare a covenant or compact, to be signed by the members. Fay, Chittenden, Jones, and Marsh were appointed to this latter committee, together with Ebenezer Hoisington, Colonel Moses Robinson, and Doctor Obediah Dunham. The three last took the places of Carpenter, Rogers, and Ira Allen, who had served on the Committee on Programme.

On the morning of Friday, September 27, the Committee on Covenant or Compact submitted to the convention the following:

"At a General Convention consisting of fifty-six Delegates on the New Hampshire Grants, on the east and west side of the range of Green Mountains, representing thirty-six towns on said Grants, held at Dorset the 25th day of September, 1776, by adjournment.

"Whereas this Convention have for a series of years had under their particular considerations the disingenuous conduct of the former Colony (now State) of New-York toward the inhabitants of that District of Land commonly called and known by the name of the New-Hampshire Grants, and the several illegal, unjustifiable, and unreasonable measures they have taken to deprive by fraud, violence, and oppression those inhabitants of their property and in particular their Landed interest; and as this Convention has reason to expect a Continuance of the same kind of disingenuity unless some measures effectually be taken to form the S^d District into a separate and distinct one from New York; and whereas it at present appears to this Convention that, for the foregoing reasons, together with the distance of road which lies between this District and New York, it will be very inconvenient for those inhabitants to Associate or connect with them, for the time being, directly or indirectly:

"Therefore this Convention being fully convinced that it is necessary that every individual in the United States of America should exert themselves to their utmost abilities in the defence of the liberties thereof and that this Convention may the better satisfy the Public of their punctual attachment to the S^d common cause, at present as well as heretofore, we do make and subscribe the following Covenant, viz:

"We the subscribers inhabitants of that district of Lands commonly called and known by the name of the New Hampshire Grants, being legally delegated and authorized to transact the public and political affairs of the aforesaid District of Lands, for ourselves and Constituents, do solemnly covenant and engage that, for the time being, we will strictly and re-

ligiously adhere to the several resolves of this or a future Convention constituted on S^d district by the free voice of the Friends to American Liberties, that shall not be repugnant to the resolves of the hon^{ble} Continental Congress relative to the General Cause of America.”¹

Boiled down to its essence, this agreement was merely an attempt to bind its signers to conform, *for the time being*, to the decisions of the convention and a subsequent convention. The double insertion of the words “for the time being” made room for wide possibilities: they left room either for a future adjustment with New York or the formation of a separate State Constitution. Undoubtedly, the compact was signed by most of the delegates, although the names of no signers appear in Jonas Fay’s minutes.² An atrociously spelled copy of the compact in the fourth volume of the *Documentary History of New York*, at pages 554 to 555, shows but forty-five signers. The subscribers included Warner, Heman Allen, Abner Seeley, and Obediah Dunham, who were not listed as delegates to the convention, and lacked fifteen who were. Among the names omitted were Bowker’s, Chittenden’s, and Colonel William Marsh’s. Four delegates from east-side towns failed to subscribe, but Ebenezer Hoisington, of Windsor, put his name to the compact.

This compact appears not to have been intended as a paper for general subscription throughout the Grants. Indeed, almost directly after its adoption, the convention voted that the “Association” which had been drawn up at the July convention should be tendered for signature by every male inhabitant of the Grants, “from 16 years old and upwards.” No action whatever was taken with regard to the compact.

There now came up for the first time in the convention the name of Jacob Bayley. The lack of his support meant the lack of the support of Gloucester County. The worth of Bayley’s character was well known to the delegates at Dorset. Without him they were without the strongest moral force to be found in any single character on the Grants. Recognizing

¹ 1 *Gov. & Coun.*, 29–30.

² *Early Vermont Conventions.*

the situation but doubting Bayley's sympathy with their plot of secession, the delegates passed the following resolution:

"Voted, That Col^o Jacob Bayley, Capt. Abner Seeley and Col^o Jacob Kent¹ be a Joint Committee to exhibit the proceedings of this meeting to the inhabitants of the County of Gloucester, and request them to sign the Association left with them at their County Convention held at Thetford the 13th day of August ultimo and return the same by their delegate or Delegates chosen or to be chosen hereafter to meet and join this convention at their next sitting."

The "joint committee" of which Bayley was thus made a member was the only committee to which the word "joint" was attached. The intent was plain. Seeley was of Thetford, was the only citizen of Gloucester County whom the convention had under its complete control, and who could be depended on to do what he could towards spreading the new State propaganda. Without the approval of General Bayley, Seeley's efforts would come to little. Neither Bayley nor Kent could be counted on to favor a revolt from New York while the war of the Revolution required complete union and co-operation among the thirteen former colonies. Therefore, in the hope that Bayley and Kent might be pleased with the appointment, the convention constituted them members of a "joint" committee which, of course, could only act by the joint consent of the members. Thus the convention neatly forestalled the possibility of Bayley and Kent, as the majority members of the committee, taking action independently of Seeley and thwarting the aims of the convention. It was too transparent a trick to dupe or seduce so keen a patriot as Jacob Bayley, and was a poor way in which to approach him. The subsequent overtures for his support were made directly and without resort to ruse.

The convention must have had little confidence in the plan to enlist General Bayley in the New State cause, because when the delegates came to the point of selecting men to

¹ Colonel Jacob Kent, of Newbury, was president of Gloucester County's Committee of Safety.

spread the news of the convention's proceedings through the several counties upon the Grants it was "Voted, That Col^o Wm. Marsh and Capt. Ira Allen be a Committee to go into Cumberland and Gloucester Counties to carry the proceedings of this Convention. . . ."

The convention appointed Doctor Jonas Fay, Doctor Reuben Jones, and Colonel William Marsh to draw a "Remonstrance or Petition" to be sent to the Continental Congress' On the intended contents of this document Colonel Marsh made a brief report, but it was concluded on the following day to defer the finishing or final approval of the paper until the convention's next session. The appointment of a "Board of War" of west-side members, the adoption of a code of rules for the discipline of the militia, a provision for the building of a jail at Manchester, and the selection of a committee of twelve west-side members to attend the next session which was to be held on the east side of the Green Mountains, constituted the bulk of the remaining business. The convention ended on the morning of Saturday, September 28, on which day, with a sense or caution or as a blind, the convention adopted the following measure: "Voted, that Col^o Seth Warner, Capt. Heman Allen, Capt. Gideon Brownson, Mr. Ebenezer Hoisington, Capt. Abner Seeley and Doctor Jonas Fay be a committee to prepare a Citation to send to the State of New York *to know if they have any objection against our being a Separate State from them* : and to make a report as soon as may be." The delegates who proposed that procedure may have been uneducated men, but they must have been sufficiently worldly wise to know in advance that New York would entertain grave objection to being dismembered. The only reasonable inference from this vote seems to be a hope of deceiving New York into the belief that the inhabitants of the Grants had been and intended to be merely marking time with the New State idea until formal reply should come from New York. Indeed, the form of the enquiry and the fact that it was being made might possibly create in the minds of those to whom it was addressed a hope that an answer disapproving separation would end the project. It is quite difficult to spell good faith out of such a manœuvre. Moreover, the Dorset delegates well knew that

such an enquiry would not strike New York as a jolt of novelty or with surprise, for Ebenezer Hoisington must have fully explained to them the contents of his code of instructions and the Phelps letter which had been sent to New York by the Cumberland County Convention in the early part of the summer, and which had fully apprised the New York Congress or Convention that secession was under consideration.

Except for determining the duties of the delegates in notifying their constituents and neighbors of what the convention had accomplished and agreeing on final adjournment, the last act of the Dorset Convention was a bit of the old policy of coercion. This consisted of a vote that nobody should participate in the election of local committees of safety save those who should sign the association as formulated by the Dorset Convention of July 25. A special reason for such a precautionary measure might be found in the tories in certain localities: "it appears that the Town of Arlington are principally Tories"; but subsequent developments prove sufficiently that the measure was aimed also at those who maintained allegiance to the State of New York. The convention then charged the delegates with the duty of spreading the report of the convention's proceedings. To Ebenezer Hoisington fell the responsibility of notifying Windsor, Hertford (Hartland), Woodstock, Hartford, and Pomfret, and the convention adjourned to reconvene at the Court House at Westminster on October 30, at 10 in the forenoon.

CHAPTER XXXIV

THE PHELPS LETTER MAKES TROUBLE

CUMBERLAND COUNTY'S three delegates to the New York Convention had been engaged on the business of the session for some time before the convention journal makes mention of the Hoisington code of instructions or the Phelps letter. The latter paper was specifically called up on August 24. The entry on that day reads as follows: "A letter from the committee of the County of Cumberland was read, and is in the words following, that is to say: . . ." Here the Phelps letter, signed James Clay, chairman, and accompanied by the protests of Elkanah Day, of Putney, John Bridgeman, of Hinsdale (Vernon), and John Norton, of Westminster, was spread in full upon the convention's records. No debate on the subject occurred at the moment, the letter merely being referred to a committee consisting of Messrs. Morris, Duer, Hobart, and Schenk. Present on that day were two of Cumberland's delegates, viz., Colonel Joseph Marsh and Captain John Sessions.

There was no further action on the Phelps letter until September 26. By this time Colonel Marsh, who seems to have obtained leave of absence on or about August 29, had gone home. Major Stevens, however, was in his seat; and he with Captain Sessions had the burden of explaining what was behind the Phelps letter and what it threatened. The immediate occasion for bringing forward the Phelps letter on that day was the receipt of the following communication from Major Joab Hoisington, of the Cumberland and Gloucester Rangers:

"Agreeable to the order of the Honorable the Congress I have sent the muster-rolls of the several companies under my command by Elizur Andrews, the bearer, begging the favour

of your forwarding the remainder of the bounty, rations and first month's wages, taking his receipt for the same.

"I am Sir, your humble servant

Joab Hoisington.

"N.B. Please to remit my wages and rations, likewise as much of the ration as the Honorable Congress shall see fit. Find it much easier to purchase supplies with cash."

This message from Major Hoisington, together with the list of officers under him, having been read and spread upon the minutes, a motion was duly made and seconded that a sum sufficient for Hoisington's needs be supplied him. Here trouble broke out. Somebody promptly objected that the Cumberland County Committee, by the Phelps letter of June 21 and the accompanying instructions, had reserved or pretended to reserve to the people of that county a right of seceding from the government of New York; that the State had already been put to great expense for Cumberland County and that further expenditure on its account should not be made until the inhabitants of that county fully acknowledged the jurisdiction of the State of New York. To an unprejudiced reader these objections will seem not only timely but natural and reasonable. Plainly, the fat was in the fire. No wonder that Simon Stevens and John Sessions were quickly put upon the grill. In the course of the ensuing debate and at the request of one of the delegates, Stevens was asked point-blank if he acknowledged the jurisdiction of New York over Cumberland County. Stevens replied that he fully acknowledged it. Sessions did the same. Here the discussion went over until the next day.

On September 27 the requisition of Major Hoisington and the Phelps letter were read once more and debate resumed. Again Major Stevens and Captain Sessions were put on the stand. They were asked whether they were elected by the sub-committees of the several Cumberland County towns or by the people at large. "By the people of the County at large," they answered. They went on to testify that the Committee of Cumberland County consisted of two committeemen from the sub-committee of each town, and that these sub-

committees had been chosen long before the delegates to the New York Convention were elected. Captain Sessions testified that he was very confident that neither the County Committee of Cumberland County nor the town sub-committees had received from the people any orders either that instructions be given to the delegates, or that any reservations such as were made in the Phelps letter should be insisted on. This letter, Sessions explained, was agreed to by way of a compromise "to prevent any division in the County, as some few towns in the County were opposed to sending deputies to the Convention unless with such instructions." He had received no particular instructions from his own town, and he doubted whether any other town had given any. He felt that his credentials vested him with full power to participate as a delegate in forming a government for the State of New York. Pressed further by the other delegates, Captain Sessions declared that he felt bound by the Hoisington code of instructions no further than to see that the instructions were brought to the notice of the convention, to cast his own vote in accordance with such instructions and to endeavor to have them carried out by the convention "so far as they shall appear to be right and beneficial."

Both Stevens and Sessions were asked if they would feel bound by the Hoisington instructions in particulars in which, upon debate, it might be demonstrated that the instructions were "injurious." Under such circumstances, or if they should be outvoted Cumberland's delegates maintained that they would not be bound by the instructions. This ended the hazing of the two gentlemen from Cumberland. They had stood their ordeal fairly well, but they must have realized that they had taken exceedingly long shots in interpreting the language of Ebenezer Hoisington and Charles Phelps. At all events, the majority of the convention realized it.

One of the delegates now pointed out that the committee to which the Phelps letter had been referred on August 24 had made no report. Most of that committee being absent, the convention appointed a new committee, consisting of William Duer, James Duane, Zephaniah Platt, Captain Sessions, and Major Stevens, to take under consideration both the Phelps

letter and Major Joab Hoisington's requisition. To this committee John Jay was subsequently added. As the personnel of the new committee foreshadowed, there was businesslike despatch in its proceedings. A committee report, covering the situation very fully, was offered within five days on October 2. Owing to pressure of other matters, it did not come up for discussion until two days later, when we find it spread at length on the convention journal. Since it was offered by James Duane and bears evidence of his lawyerlike artfulness and skill, the probability is that he was both chairman of the committee and draughtsman of the report.

The committee's report set forth that New York had already supplied Cumberland County with one hundred pounds sterling in money, eighteen hundred pounds of gunpowder, forty-five hundred pounds of lead, and a quantity of flints; that New York had favored Cumberland further by authorizing the raising of the Rangers in Cumberland and Gloucester Counties, with a bounty of twenty-five dollars and a Continental trooper's pay for each non-commissioned officer and private; that subsistence allowances had been provided for each captain at sixteen shillings per week, for each lieutenant at fourteen shillings, and for each non-commissioned officer and private at ten shillings; that a Cumberland County major in the person of Joab Hoisington had been commissioned as commander, and that not less than twelve hundred pounds sterling in money had already been handed to Cumberland's delegates for the benefit of these troops. Yet on top of this beneficence, as the committee's report proceeded to relate, had come the insolent letter from Cumberland County's committee and a requisition from Major Joab Hoisington calling for \$6,412.25 additional funds.

James Duane's committee report, drawn in his fluent style and in the tone of a lawyer's argument, is an excellent presentation of the New York side of the case. Though it is too long to present in full in these pages, it should be read by anybody who wishes to get a full view of the opposing claims of the New Hampshire Grants settlers and the government of New York. The document may be found in its entirety in the printed journal of the New York Convention and in the third

volume (second series) of *American Archives*. There is a fairly full summary of it in B. H. Hall's *History of Eastern Vermont*, at pages 271 to 274.

Duane recited the two following objections that had been raised on the floor of the convention against acceding to Major Hoisington's request: first, that since Cumberland County had reserved or pretended to reserve not only the right to reject the whole or any part of a frame of State government not conforming to Ebenezer Hoisington's code of instructions, but also the right to secede from New York, no further funds should be supplied: that no money should be sent if jurisdiction is questioned. Second, that it did not appear in the correspondence or elsewhere that the Rangers had actually supplied themselves with muskets, firelocks, powder-horns, bullet pouches, tomahawks, blankets, and knapsacks, as prescribed in the resolutions of the convention under which the troops had been raised. Of course, the first point was the serious one. On this, Mr. Duane grew expansive and eloquent. He sketched the history of New York's jurisdiction and exercise of authority over Cumberland County, the beneficence of New York's rule, the issuance of confirmation charters. Over debatable if not dangerous ground he passed lightly and rapidly until he landed upon safer footing. Certainly "at a time when this state is invaded and pressed by powerful armies, when our utmost exertions are necessary, and we are straining every nerve for the common cause of America, for the general defence of this state and for the more immediate defence of the County of Cumberland" it was, as Duane plausibly urged, the duty of the convention to preserve jurisdiction over the entire state domain. Later, when read on the Grants, his argument served as a rallying cry to all except those bent upon secession. Even to some of the latter it appealed on reflection as ground for a postponement of separation until the War of the Revolution should be over.

Duane thus proceeds: "At a time when every virtuous member of the community is loudly called upon to assist his bleeding country, and harmony and mutual confidence are so essential to our preservation and to the success of the greatest and best of causes—at such an important and decisive conjuncture

your committee cannot but lament that any of the inhabitants of the County of Cumberland should suffer themselves to be so far misguided as to assert a claim and principles subversive to all government, derogatory to the dignity, rights and jurisdiction of this state, manifesting an unbecoming return for the assistance and protection they have received out of the public treasury of their fellow-subjects at large, and implying a latent design, by a future separation from the state, to leave the whole burthen of the present cruel and expensive war to be sustained by the rest of the community."

Logical, no doubt, Duane was. Among the other twelve revolting colonies his report must have been fairly effective campaign material for New York's case against the inhabitants of the New Hampshire Grants. It reminds us, perhaps, of our own feelings when, during the great World War, we deplored, not without indignation, the disposition of some of the Irish to seek at that anxious time a separation from Great Britain. On the other hand, we can understand Vermont stubbornness and we can easily picture the lack of effect produced by Duane's aggressive and untactful style on men of the type of Ebenezer Hoisington. Let us continue, however, with Duane's argument and observe how he dealt concretely with the Hoisington code of instructions and the Phelps letter.

"If the extraordinary injunctions in the letter from their committee should be vindicated," proceeds Duane, "it must follow that the form of government dictated by a party . . . by no means a majority of the county, is to be adopted, however injurious to the general interest of this state or disagreeable to the other counties . . . ; and thus a single county is to control the whole state, prescribe its constitution and government, and establish its laws on pain of separation. From a parity of reason every other county and every district and town within this state might arrogate the same power and instead of producing order, security and a wise and permanent government—the great and salutary purposes for which this free convention was elected and assembled—anarchy and confusion must be the fatal result."

Here, again, James Duane is perfectly logical—especially on such facts as he was willing to state or assume. But the in-

habitants of the New Hampshire Grants were not of the same breed as the men in the other counties of New York: they had been brought up under different traditions. The New England methods of government—not only those which had been in force but those which the inhabitants of the Grants hoped to see installed—were not the same as those in favor in the other parts of New York. Ebenezer Hoisington had these differences in mind when he formed his code of instructions. Manhood suffrage without property qualification, the town as the unit of representation, the election rather than the appointment of public officers—these and other items considered essential by Hoisington in a properly constituted government were not only deemed not essential by the best and leading characters of New York, but were regarded as objectionable. Duane was therefore going beyond the case in assuming the chance that other New York counties outside the New Hampshire Grants might undertake to dictate forms of government. He was in error, also, in failing to recognize the peculiar reverence in which the men of New England birth and training held those governmental usages with which to this day we are so familiar.

In spite of the warmth of Duane's committee report and in spite of its unyielding tone the committee reached the risky conclusion that probably the Phelps letter and the Hoisington code did not accurately reflect the sentiments of the people of Cumberland County as a whole. Therefore, while the convention deemed it advisable to send to Cumberland County an investigating committee to report the actual conditions, Duane recommended that the requisition for the Rangers be forthwith honored. His concluding words are as follows: "And, lastly, that they represent to the committee of the said County of Cumberland the wisdom and propriety of a revision of the said letter, and of an unreserved submission of the said county to the jurisdiction of this state, so that all cases of distrust may subside and the harmony which is so essential at this important conjuncture may be fixed on the surest foundation."

Five hundred copies of Duane's report were ordered printed for distribution in Cumberland County, the money for Hoisington's Rangers was appropriated, two thousand flints were

provided for Cumberland County and an investigating committee, consisting of Captain John Sessions and Colonel Joseph Marsh, with delegate John Taylor, of Albany County, was appointed. To this committee Major Simon Stevens was soon added as a fourth member.

Although, as already pointed out, Colonel Joseph Marsh had left for home before the debate on the Phelps letter, he was well aware of the disturbance which that letter had provoked in the minds of the delegates. In fact, it appears from what follows that the Phelps letter had prevented his securing for Cumberland County a supply of arms which he had been asked by his constituents to obtain. Colonel Marsh, it seems, on his way to Hartford had passed through Putney and had fully reported to Chairman James Clay, of the Cumberland County Committee, the mess which had been stirred up in the New York Convention by Charles Phelps's communication. The situation appears quite clearly in the following circular letter addressed by Clay under date of September 26 to the members of Cumberland's County Committee in the several towns:

"Gentlemen:

"Col^{on} Williams has Earnestly Requested me to Call the County Committee and the field offiserers together, in order to Procure Arms for those that haint got none, which the County Committee have Already Don in their Instructions to our Delegates, and Col^{on} Marsh informs me he was Like to get a grant of money from the Provincel Congress sufficient to procure three Hundred Arms for the Benefit of the County and should have got them had it not been for that Letter which M^r Phelps and some others Did Prevail upon the Committee to send to New York, together with some other informations they have Received, which made them believe that we were agoing to Revolt from them, since which they will Do nothing for us, untill they can be assured that we have no such intent.

"Now, by the advice of a number of the members of the County Committee, I earnestly Request that you would call your town together that you may know their minds as a body,

or as individuals, wheather they Intend to Revolt from the State of New York or not, and be Pleas^d to send the Proceedings of your Town to Westminster by your County Committee at their next setting on the first Tuesday of November next that the County Committee may be able to send to the Provincial Congress the minds of the Inhabitants of this County in this Important affair. I Beseach of you and of every member of this Community to act Candidly and uprightly in an affair of such importance as this, at this Critical Time. Your Compliance with the above Request will greatly oblige a number of the County Committee and your Humble Servant Putney, Sept^r 26: 1776.

James Clay Chairman

"To the Sub Committee in the Town of ——." ¹

Clay reported subsequently that although he sent a notice in the above form to every town "Desiering them to meet as above said" only four towns held meetings.² This lack of response could hardly have been due to indifference: more likely it was due to disinclination to make a definite announcement on a subject of such delicacy and on which the conflicting opinions had bred dissensions among the inhabitants themselves. Thanks to the light-fingered audacity of John Taylor, who tore down and pocketed the notice or warning of Marlborough's Town meeting, we have a specimen of the form of written notice used in the few towns where meetings were convened.

"A Notyfication

"To Notify the freeholders of the Inhabitants of this town to meet at the Dwelling house of Mr. Jonas Whitney on the 15th of Oct. Curent at 12 o'clock in the Afternoon To Chuse a moderator to order said meeting, To consider the contents of a letter from the Chairman of the comitte of this County Directed to the sub-comitte of this Town Requesting to know the mind of this town on acc^t of Revolting from New York. To hear the report of Capt. Whitmore from the Convention at Dorsett.

¹ 4 *Doc. Hist.*, pp. 555-556.

² 4 *Doc. Hist.*, 556.

"This above being requested by the committee of this town to me, I Do hereby appoint the time and place aforesaid.
Dated at New Malborough, Oct. 4, 1776.

William Mather,
Town Clerk."

(Endorsed) "This notification was taken from the side of a public house at New Marlborough by me. John Taylor."¹

Hertford (Hartland) faced the situation in town meeting and reported back to Chairman Clay as follows:

"Sir: Agreeable to your request of Sept^r 26, 1776, we have called the Town together to know their minds relative to a Separation from the State of New York. We find the major part for a Separation on the principle of first applying to the State of New York for it before it be carried to the Continental Congress.

Hertford, October 29th 1776.

Aaron Willard
William Gallup
Paul Spooner

Committee of sd Town of Hertford."

Halifax presented a different view which was expressed by the following vote of the townsmen:

"Put to vote: Who Present are for Setting up a New State in this Difficult and Distressing Time, and who for continuing through the present Troubles still to the State of New York? Voted to continue still to the State of New York, as above. *Nemine Contradicente.*"

Although Windsor held a town meeting at this time, the warning contained no reference to a secession from New York nor do the minutes of the meeting disclose that the subject was brought up. The meeting was a special one, called at the request of a number of the inhabitants, to consider several subjects, viz., to see if the town would choose a new Committee of Safety "in the Room and Steed" of the existing committee; to see if the town would erect a quarantine hospital for small-

¹ 1 N. Y. Calendar Hist. Manuscripts (Revolutionary), p. 487.

pox cases; to see if the town would investigate the dilatory conduct of the tax collectors; to see if the town would order that a copy of all warnings for town meetings be "sent and sett up in the Back part of the Town."

The real purpose of the meeting concerned the Committee of Safety. Since the end of the preceding year the committee had been composed of Colonel Stone, Thomas Cooper, Captain Dean, Deacon Thomson, Ebenezer Curtis, Ebenezer Hoisington, and William Smead, of whom Curtis and Hoisington had been designated as county committeemen. It will be recalled that one of the last acts of the Dorset Convention had been the passage of a resolution that no person should be admitted to vote in choosing committees of safety, except such as should sign the association drawn up by that convention. How many of the people of Windsor had then subscribed to that association is unknown. Colonel Nathan Stone undoubtedly had not signed it, had no regard for it, and had not the slightest intention of repudiating his allegiance to New York or allying himself with such a rickety scheme as that of setting up a separate state. Yet here was Colonel Stone holding the position of chairman of Windsor's Committee of Safety, and here was Ebenezer Hoisington just back from Dorset with the knowledge that according to "progressive" ideas Colonel Stone was neither eligible to the office nor entitled to vote at an election. So Ebenezer Hoisington decided to measure his strength against Windsor's chieftain.

This proved to be Colonel Stone's last successful stand as the leading citizen of Windsor.

The meeting was held on October 14. Deacon Thomson, who was probably in alliance with Ebenezer Hoisington, was chosen moderator. The situation must for a time have looked promising for the "New State" idea, but when the votes were counted it developed that Colonel Stone was triumphantly returned to the leadership of the Committee of Safety, and that Hoisington, Deacon Thomson, Ebenezer Curtis, and William Smead were dropped. The new committee consisted of Colonel Stone, Richard Wait, Thomas Cooper, Captain Dean, and Captain John Packard. The election over, the meeting adjourned without disposing of any other matter save the

question of putting up a duplicate notice of town meetings in the back part of the town. The favorable action on that important item showed that the west or "back" part of the town, consisting of what is now West Windsor, had already an appreciable number of settlers.

It was perhaps at this time that Colonel Nathan Stone prepared and began securing signers to the parchment memorial addressed to "The Honorable the Provincial Congress of the State of New York."¹ In spite of the memorial's bearing a date in the year 1777, the recitals suggest the possibility if not the probability that the document was prepared late in the year 1776. It sought to assure the New York Congress or Convention that the subscribers desired no separation from New York. It requested the New York Convention to impress such sentiments on the Continental Congress at Philadelphia. A postscript indicates that the memorial had long been withheld from delivery, so as to avoid raising a local contention which might injure the cause of the American Revolution. This circumstance may account for the memorial's being dated on January 3, 1777, or June 3, 1777, even though its actual execution took place the previous year. There is no evidence that Colonel Stone or anybody else ever forwarded the paper to the New York Convention.

These are the subscribers to the memorial: [First column: mainly Hertford (Hartland) residents] Robert Morrison, Aaron Willard, Simeon Alvord, Jonathan Burk, John Barrell (or Barrett), William Patterson, John Laiton, Timothy Lull, Ephraim Minor, Phinehas Killam, John Goulding, Caleb Shaw, Samuel Rust. [Second column: mainly Windsor residents] Nathan Stone, Joseph Barrett, Zedekiah Stone, Jeremiah Bishop, John Brown, William Smead, junior, John Packard, John Benjamin, Thomas Waitt, William Hunter, Benjamin Bishop, Jonathan Peirce, James Fletcher, Richard Wait, Joseph Woodruff, William Darling, Reuben Dean, William Smead, Caleb Stone, Jonathan Hodgman, Elisha Hubbard, Jeremy Dwyer, Peter Taylor, Jacob Hastings, Matthew Hammond, Joseph Powers, Elnathan Strong, Joseph Moulton, Samuel Messer, Elihu

¹ This paper was advertised for sale at auction by C. F. Heartman, at Metuchen, N. J., on February 22, 1927.

Newell, Thomas Hunter, Ezekiel Hawley, Benjamin Wait, Eldad Hubbard, Matthew Patrick, Francis Beatty, Joseph Hodgkins, Benoni Patrick, Lot Hodgman, John Lumbard.

In each of the two columns of signatures occur two erasures. In the second column, just above Eldad Hubbard's name, there are fairly plain indications that the signature of Watts Hubbard, junior, had been affixed. The marks beneath Joseph Barrett's name suggest the remains of Andrew Naughton's signature. Both Watts Hubbard, junior, and Andrew Naughton, as appears elsewhere, were charged with being loyalists. This circumstance may point to the character of the two men whose signatures were erased in the column of Hartland signers. The names of Zadock Wright and Titus Simonds come quickly to mind.

The Windsor list gives a clear idea of the momentary party division. Since it lacks such names as Ebenezer Hoisington, Ebenezer Curtis, Thomas Cooper, William Dean, Hezekiah Thomson, and Steel Smith, we may infer that these men already were active in the secession movement, which presently drew to its support most of the signers of Colonel Stone's memorial.

John Taylor's letter reporting the conditions in Cumberland County as he found them in the autumn of 1776 is a contribution to the history of the times. Though Mr. B. H. Hall pronounced it "neither accurate nor particular,"¹ it has the earmarks of truth and is indisputably interesting. Through no wisdom on Taylor's own part he found himself on his tour of inspection in the company of two sagacious and well-informed colleagues in the persons of Colonel Joseph Marsh, of Hartford, and Captain John Sessions, of Westminster. Moreover, these two residents of Cumberland County were men of character and probity. A committee thus constituted was unlikely to stray far from the true facts, although possibly unable to ferret out all the secret plottings that then were going on. Taylor's letter, which is addressed under date of November 3, 1776, to the then president of the New York Committee of Safety follows.

¹ *History of Eastern Vermont*, p. 276.

Albany, Nov. 3d, 1776.

Sir: In Compliance with an order and resolve of the Convention I repaired to Cumberland County, to unite with Mr. Sessions and Col. Marsh, to carry into execution a resolve of the 4th ultimo. I met these gentlemen though without the resolution referred to, owing to Mr. Stevens's delay, who was to carry the reports, etc.

The attack on our fleet on Lake Champlain occasioned the militia's being called out, which rendered it impossible to collect the sense of the people until affairs were more settled.

It was thought advisable that the report of the Convention should be dispersed through the counties and a proper time fixed by Col. Marsh and Mr. Sessions (who would appear the best judges) for taking the matter up, that I should be advised of the same, and attend accordingly.

It is reported Col. Warner has said he was advised to petition Congress to have the New Hampshire Grants set off as a new state by Mr. Adams, one of the Delegates.

The people are much divided, some for a new State, some for joining Hampshire, others Massachusetts, many for remaining under New York. I endeavored to dissuade them from persisting in such idle and delusive schemes which would meet with the approbation of such only as were fond of changes and rather choose to live under no government, as the conduct of the most industrious in this affair has too plainly evinced heretofore.

The chairman of the Committee of Cumberland disapproves of the letter sent by their delegates; it was carried by a majority in their house, though few out of doors knew a word of it. It was framed by a certain Mr. Phelps, the oracle of them parts, who I understand is very busy in this affair.

From what I have heard among those people I am led to believe they will remain no longer under the State of New York than they can help.

Mr. Sessions advanced five hundred pounds to Major Hoisington of the rangers; the remainder I am of opinion he will keep in his hands until he hears from Convention.

The enclosed I took down at a Tavern in New Marlborough. The inhabitants on my return accused me of being guilty of a

desperate mean act. They could not proceed to business for want of a notification as the town clerk had no other minutes.

I am sir, with great respect,

Your most obed^t humble servant

John Taylor

To Pierre Van Cortlandt Esq.

The enclosure which Taylor mentions was the notice of Marlborough's town meeting¹ called pursuant to Chairman Clay's request. Another paper which Taylor probably transmitted was a memorandum of Abner Seeley's item of news which has already been mentioned. The attack on the American fleet on Lake Champlain, alarming enough in itself, was supposed by the settlers to be but a step leading to an attack by the land forces under General Carleton. Apprehension on this score was uppermost in the minds of the inhabitants of the Grants at the time of Taylor's investigation.

It will have been perceived that the Phelps letter had the effect of fixing the attention of the New York Convention on Cumberland County and creating the belief that in that part of the New Hampshire Grants the thought of revolt and secession had gained the greatest headway. In further justification of that belief one might cite Cumberland County's reputation for disorder resulting from the Nathan Stone rebellion and the Westminster affray—one the earliest and the other the most violent of any of the serious outbreaks against New York's authority. Beyond this, the defection in Cumberland had at least the appearance of involving an entire county of considerable area, of older settlements, and, probably, of more substantial and prosperous individuals than were to be found in other parts of the Grants. The defection in Albany and Charlotte Counties, on the other hand, involved only the fraction of those large counties that lay upon the Grants. For the time being the New York Convention overlooked or perhaps were not fully cognizant of the fact that the settlers on the Grants on the west side of the Green Mountains were more nearly unanimous for secession and had been more constant and active than the inhabitants on the east side in fomenting rebellion. The latter considerations (which were dwelt upon

¹ Pages 316-317.

in the formal report submitted by Taylor's committee in January, 1777) subsequently gained a somewhat exaggerated importance in the minds of the New York authorities. This revised view of the case the Vermont historians have generally accepted to the extent of mistakenly ascribing to the west side inhabitants practically all of the credit or discredit for a complete breach with New York during the stressful days of the American Revolution.

CHAPTER XXXV

THE REVOLT HANGS FIRE

GOVERNOR HILAND HALL is probably correct in his opinion¹ that it had been the expectation of the Dorset Convention on adjourning to meet at Westminster on October 30, 1776, that at the adjourned session there would be a definite and formal rupture with New York. "But when the meeting came, the inhabitants of the territory were in great alarm and confusion in consequence of the destruction of the American naval force on Lake Champlain and an expected attack by Carleton on Ticonderoga. . . ." ² Governor Hall also states that a large number of the settlers had been called to the defence of that fortress and the frontier, so that the Westminster session in October was brief and its attendance thin.³

As a matter of fact, but seventeen delegates reported at the three days' session of the convention of the New Hampshire Grants, which opened at Westminster on October 30. Only six of these delegates came from west-side towns. Captain Joseph Bowker, of Rutland, who had acted as chairman at Dorset, was again in the chair. In the absence of Doctor Jonas Fay the delegates appointed Captain Ira Allen, of Colchester, as the clerk of the meeting, and thus gave him his first prominence as an official in the New State movement. Ebenezer Hoisington, who in spite of having been deposed as one of Windsor's committee of safety, still held his post as a delegate to the New Hampshire Grants Convention, was on hand as Windsor's representative. Again Windsor was the most northerly town on the east side of the Green Mountains to send a delegate.

The very first matter of business to be taken up by the convention after the choice of a clerk, was to send a committee to Doctor Elkanah Day, the secretary of the Cumberland County Committee of Safety, and get the records pertaining to the sending of county delegates to the New York conven-

¹ *Early History of Vermont*, p. 235.

² *1 Collections Vt. Hist. Soc.*, p. 34.

³ *Id.*

tion. These records included, of course, not only the record of votes cast and the credentials of the delegates, but the Hoisington code of instructions and the Phelps letter. The second matter of business was the appointment of a Committee on Programme. Nothing else took place on the first day and nothing on the second day, except to invite Chairman Clay and Secretary Day of the Cumberland County Committee to attend the session as guests.

The Committee on Programme, consisting of Ebenezer Hoisington, Joshua Webb, Ira Allen, William Fitch, and Doctor Reuben Jones, made its report on the morning of November 1. "It is the opinion of this Committee," says the report, "that by reasons of the incursions of the Enemy, and that the Militia of this State have lately been called and are now going to the relief of their distressed Brethren at Ticonderoga and the Northern frontiers of this State, and that several of the Members of this Convention are more immediately called on to the relief of their families, &c., which has so far taken up our attention and the attention of the People at large that we have not collected the full sentiments of the People." On the strength of this convenient, reasonable, and probably truthful excuse the committee advised that it was unwise to complete the contemplated petition to the Continental Congress or to fill up the committee to present it. The report which James Duane's committee had submitted to the New York Convention on October 2, received the attention of the Committee on Programme, and they recommended not only that it be answered but that the answer be accompanied by a pamphlet setting forth the advantages of forming the New Hampshire Grants into a separate State. This pamphlet, the committee thought, should be printed and distributed among the inhabitants forthwith. Besides the pamphlet the committee advised the publication of a "manifesto" in the newspapers, "setting forth the reasons, in easy terms, why we choose not to connect with New York."

The convention adopted this report and selected Colonel William Marsh, Ira Allen, and Solomon Phelps¹ to draft the

¹ Solomon Phelps, son of Charles Phelps, was a troublesome lawyer of Cumberland County. He seems not to have been a delegate to the Convention.

answer, the pamphlet, and the manifesto. The convention also directed the three men last named, together with Doctor Jonas Fay, to draw a petition to be sent to the New York Convention, requesting approbation of the plan for setting up the New State. It will be recalled that this suggestion of applying to New York had already received favor. Probably it came up again in consequence of the fact that nothing in that direction had actually been done, and also because some of the towns, such as Hertford (Hartland), had favored it. As a matter of fact, no such petition ever was presented, and probably those who had the running of the proceedings never intended anything of the sort.

The convention appointed a committee, on which General Jacob Bayley was named as a member, to go through Cumberland and Gloucester Counties, get signatures to the association, and spread the news of the convention's transactions. Evidently General Bayley was still the serious factor to deal with. In the hope that General Bayley might be won over, Lawyer Solomon Phelps was asked to write him a letter, "desiring him to assist the above committee." The convention then adjourned to meet at Westminster on the third Wednesday of January, 1777.

Four days after the adjournment of the New Hampshire Grants Convention, the Committee of Safety for Cumberland County met at the same place. Ebenezer Hoisington could hardly have had time to get home to Windsor and back again for the first day's session on November 5. Perhaps he, like several of the other committeemen, was late, for we find that on the first day there was "not a Sufficient Coram to Proceed to Business." He was there, however, on November 6.

It must have been a somewhat ticklish position in which Ebenezer Hoisington now found himself. As a delegate to the "General" Convention he had gone as far as anybody in taking the initial steps towards secession from New York, yet, only a few days later, he appeared as a county committeeman of a New York County. In the same predicament were four other men of Cumberland County.

After a day and a half spent in judicial matters, among which was the entry of an order to deport the pestiferous Solomon

Phelps from Westminster to his home town, the Committee of Safety for Cumberland County was nearly rent asunder over the question of what to do about the letter of June 21 drafted by Charles Phelps and sent by James Clay as chairman of the Cumberland County Committee of Safety to the New York Convention. To the majority of the Committee of Safety, in view of the report on that letter made by James Duane's committee to the New York Convention, it now seemed best that the letter be withdrawn. Here arose a storm. By a scant majority the motion to withdraw the letter prevailed, and thereupon Ebenezer Hoisington and six other committeemen bolted the meeting.¹ Before so doing they prepared and signed a written protest setting forth their views. This paper, by reason of one suggestion it contains, is worth giving.

"We, the Subscribers, Being Members of the Committee of Safety for the County of Cumberland, think ourselves Bound in the Strongest Obligations to stand For the Pease & Good Order of this County Under the Directions of Hon^{ble} the Continental Congress & we Whose names are hereunto subscribed are of Opinion that the Major part of s^d Committee act Repugnant to the resolves of the Hon^{ble} Continental Congress; therefore, we Whose names are Hereunto Ennixed, Enter Our Disent from s^d Committee of Safety, and our Protest against the further Proceedings of this Committee as Committee of Safety for the County.

"Westminster, 7th Novem^r. 1776.

John Chandler
Wm Simons
Leonard Spalding
Joseph Hildreth
George Earl
Ebenezer Hoisington
Sam^l Fletcher."

The striking point in the wording of the above protest is the reference to the "resolves of the Hon^{ble} Continental Congress."

¹ In writing of this episode Chairman Clay reported that *eight* of the delegates withdrew and that *nine* voted to expunge the letter. (2 *N. Y. Coll. Hist. MSS. Revolutionary*, 148.)

Here is disclosed an idea which had occurred to Ebenezer Hoisington when he was preparing his code of instructions to Cumberland's delegates and which Charles Phelps had in mind when he drafted his letter of June 21. The Continental Congress, on May 15, 1776, had passed a resolution recommending to the assemblies and conventions of the United Colonies, "*where no government sufficient to the exigencies of their affairs has been hitherto established, to adopt such government as shall in the opinion of the Representatives of the people best conduce to the happiness and safety of their constituents in particular and America in General.*"

The *italicized* words furnished to Ebenezer Hoisington and Charles Phelps an argument on which they could at least hang a hat. They considered the "exigencies" of the New Hampshire Grants—or, at least, those of Cumberland County—to be such that there was no "sufficient" government. They further considered it the duty of the settlers in establishing a "sufficient" government to form one which would truly "best conduce to the happiness and safety" of the inhabitants. Therefore Hoisington and Phelps had seen to it that Delegates Marsh, Sessions, and Stevens, and the entire New York Convention were apprised of the sort of government Cumberland County required. This point was not lost sight of by the New York Convention when Sessions and Stevens were quizzed as to whether they had been elected by the "people" or by a committee. The same point now actuated Ebenezer Hoisington and his six fellow dissenters. They considered a withdrawal of the Phelps letter tantamount to a disregard of the injunction of the Continental Congress that the State government to be formed should "conduce to the happiness and safety" of the inhabitants. This same argument was used the very next year by Thomas Young, of Philadelphia, in his letter to the people of the New Hampshire Grants, recommending that they organize themselves into an independent State.

With such force did the action of the dissenters strike the majority of the Cumberland County Committee of Safety that overtures for peace came the next morning. A committee composed of three of the majority party and two of the mi-

nority, was chosen "To Diliberate on Withdrawing a Peise Sent to the Provincial Congress of Esq. Phelps Draft Touching being Laid to Massachusetts Bay or some Other State & to frame something to send in its sted and make Report." One of the two members of the minority party on this committee was Ebenezer Hoisington.

While the rest of the Committee of Safety was occupying itself with petty matters of private controversy, the sub-committee of five worked on the problem that had been confided to them. Ebenezer Hoisington knew that the New Hampshire Grants Convention had reached the conclusion that the present was not an opportune moment for an open breach with New York. The other members of the sub-committee not having been members of the Convention may not have had that knowledge. He knew, also, that on the continued support of New York depended the subsistence of the Rangers commanded by his nephew, Major Joab Hoisington. The case was plainly one that called for careful handling, and the result was a compromise in which, as we shall see, he did not yield over-much.

A transcript from the records of the Cumberland County Committee of Safety, setting forth the compromise recommended by Ebenezer Hoisington's sub-committee may be found in the second volume of the *Journals of the New York Provincial Congress* (1842 edition), at page 210. We give it herewith:

"At a meeting of the committee for the county of Cumberland, the committee appointed by this body to take under consideration the expediency of the letter sent from this body to the Convention for the State of New York, touching being laid to some other state &c. &c., reported, that, whereas, the committee of the County of Cumberland having received a handbill from the Convention of the State of New York directing this committee to withdraw a letter sent to them from this body, bearing date 21st of June last. We, the committee as aforesaid, having taken the same under consideration, report: That said letter ought to be withdrawn, and that we, notwithstanding, ought to Enjoy all the privileges that

any county in this State do enjoy, and that we hold it our right to present to the Hon. Provincial Congress of this State a petition and remonstrance, setting forth those grievances that are the cause of the uneasiness that subsists amongst us, for their wise consideration and redress; and if on proper deliberation it may be thought proper, a separation should be most conducive to the peace and happiness of this county, we do not preclude ourselves the privilege of presenting our petition to the Hon. the Continental Congress for their wise determination. We still mean to pay all due deference to the State of New York, and to pay our proportion of the necessary charges of the State.

"Voted to accept the above report, and that a copy be sent to the Hon. Convention of New York, signed by the chairman and attested by the clerk.

"James Clay, Chairman
of the Committee of Safety.

"A true copy of the minutes.

"Attest: Elkanah Day, Clerk.

"To the President of the Hon.

Provincial Congress at New York."

This compromise having been found acceptable to both parties within the Cumberland County Committee of Safety, the seven dissenters introduced a motion that their previous protest "be withdrawn & we to Join again as members." This closed the meeting, which then adjourned to the first Tuesday of the following June "& not Sooner Except on an Emergent Call," the long adjournment being probably urged by Ebenezer Hoisington and other secessionist members in the belief that by June the revolt from New York would be an accomplished fact and that they would thus be relieved from the embarrassment of again appearing in an official capacity as citizens of that State.

At this juncture one reads with some impatience Mr. E. P. Walton's remark that "from this period the influence of the controversy with New York upon Cumberland County is visible."¹ He had been influenced by the writings of Williams,

¹ 1 *Gov. & Coun.*, 360.

Allen, Governor Hiland Hall, and others into acquiescence with their assumption that only the settlers on the west side of the Green Mountains had been implicated in secession. Readers of these pages will appreciate that such an assumption is quite unwarranted. Beginning with Colonel Nathan Stone's rebellion, the disposition to revolt, although intermittent in its manifestations, had recurred often and to a dangerous degree in Cumberland County. Long before the ninth day of November, 1776, which is the date fixed by Mr. Walton as the date of its appearance in Cumberland, it developed and had acquired strength.

By the end of the year the Convention of the State of New York had reached the conclusion that the New Hampshire Grants were determined to revolt. This is disclosed in a letter to General Washington approved by the convention on January 1, 1777, containing the following passages: "On this occasion we beg leave to lay before your Excellency the true situation of this State. It formerly consisted of fourteen counties, of which five and a part of the sixth are in possession of the enemy, and a considerable part of the counties of Gloucester, Cumberland and Charlotte appear determined to shake off their dependence upon us, so that above one-half is lost; of the remainder a considerable proportion is disaffected, and ready upon a favorable opportunity to join the enemy."¹

Towards the close of the year 1776, Windsor was one of the scenes of an inquiry into the activities of Major Joab Hoisington and his Rangers. Since several of the officers and men under Major Hoisington were Windsor men, and since the major himself was one of Windsor's first settlers, this investigation must have aroused no little interest in the town. Springing, perhaps, from Major Hoisington's falling out with James Clay during the previous summer, and aggravated by the bills of expense that the major kept forwarding to the New York Convention, there had developed against the commander of the Rangers a spirit of criticism. Even if there had been no previous complaint or accusation against him, Major Hoisington's peculiar conduct in the month of September was

¹ *Journals Prov. Cong., N. Y.* (1842 ed.), 753.

enough to arouse misgivings among even the most indulgent. We will let the major tell the story in his own language.

"Sr: I have Recievd posetive orders for Capt. Waits Companey to go with Col^o Barret on Crownpoint Road from Gen^l Gates; owing intierly to a Rong Representation of boath the footing on which we are raised as well as our neglect of publick Servic and to Convince Him of his error I have sent him the resolves of the Congress and a letter Seting fourth our present Situations and Servises; Likewise Rote to him that if one of these Companey's of Rangers Raised and ordered to Reconoit the woods must go and Worke at Rhoads, that yourn must doe it. But my determanation was and still is that not one of them Ever shall. Therefore not with Standing my order for you to go on that Rhoad Sent by Capt. Wait these are to Dezier and order you not to go But prepare to march to this place as quick as posoble. These from yours to Serve.

"Nubarey Sep^t 19 1776 Joab Hoisington

"To Capt. Elcaney Day at Westminster." ¹

The long and short of this astounding letter is that Major Hoisington, having received from General Horatio Gates, in command of his department, an order to march a company of Rangers to a certain place for duty there, calmly wrote the General declining to obey on the ground that General Gates was without authority to give such a command. The notion of equality prevalent among the New Englanders and which at first gave General Montgomery so much concern found a capital exponent in Joab Hoisington. There was nothing vicious about him: doubtless he fancied it his duty to advise General Gates that the Rangers were doing important service where they were, and, besides, that they were not enlisted for service on the Crown Point Road. On the latter head Mr. B. H. Hall asserts that Major Hoisington uttered a falsehood.² But it is unnecessary to pursue that theme: without proving that, there is enough to show the preposterous character of Major Joab Hoisington as a commander. No wonder that his

¹ 2 N. Y. Hist. Mss. (Revolutionary), 143.

² *History of Eastern Vermont*, p. 268, note.

own troops under such a leader exhibited insubordination when they received commands from their own officers.

The enquiry into Major Hoisington's conduct seems to have been handled mainly by John Sessions, who procured much of the documentary evidence. This may be found in the second volume of the *Calendar of New York Historical Manuscripts* pertaining to the Revolution, at pages 141 to 148, and also in the third volume of *American Archives* (fifth series), columns 940 to 948. Much of it deals with Clay's grievance and much with Major Hoisington's peculiar bargaining with the recruits as to their terms of enlistment. While not of sufficient historical importance to be reviewed here, it must have been highly interesting to the people of Windsor at the time, since some of the transactions occurred in Windsor and much of the testimony was taken there. The record shows, on the whole, a feeling not unfriendly to the major, who, after all the ado, seems to have escaped without court-martial or reprimand. Until his death he continued in command of the Rangers, continued to present heavy requisitions for compensation, and was under frequent examination both as to the accuracy of his accounts and the value of his services. He died of smallpox near the camp at Newbury on February 28, 1777, generally lamented and with character virtually unsmirched.

CHAPTER XXXVI

DECLARATIONS OF INDEPENDENCE

PURSUANT to the terms of its last adjournment, the so-called "general" convention of the inhabitants of the New Hampshire Grants assembled at Westminster on Wednesday, January 15, 1777. The inclemency of the season, which made travel arduous and rendered camping well-nigh intolerable, would sufficiently account for the small attendance. Though the leaders hoped and expected that the session would result in something decisive and important, only nine delegates had crossed the Green Mountains from the west-side towns, and but thirteen delegates from the east-side towns appeared on the first day. The next morning two delegates from Pownal turned up, making the entire assemblage twenty-four men. This was the small body that actually declared the independence of the State. All told, they represented but eleven towns on the east side of the Green Mountains and only seven on the west. Two of the seven west-side towns, being then within the British lines, had suspended their activities as municipal units.

The chairman, Captain Joseph Bowker, of Rutland, was on hand at Westminster for the opening of the session. The secretary, Doctor Jonas Fay, of Bennington, was absent. In the room of the latter, Captain Ira Allen and Doctor Reuben Jones acted as clerk and assistant clerk, respectively. Nathan Clark had come over from Bennington, bringing with him his son, Nathan, junior, and Captain John Burnham. Colonel Thomas Chittenden, registering from his deserted Williston, had come from Arlington, Lieutenant Martin Powell from Manchester, Captain John Hall from Castleton, and Captain Heman Allen registered from Rutland. The two Pownal delegates were Major Joseph Williams and Lieutenant Nathaniel Seeley.

When one glances at the list of delegates from the east side of the Green Mountains, one discovers that from the south-east corner of the Grants, where the settlements were the old-

est and most populous, there were no representatives save Lieutenant Leonard Spalding, of Dummerston, and Captain Samuel Fletcher, of Townshend, and that there was not one delegate from the whole of Gloucester County. Of the nearby towns, Putney sent Lieutenant Dennis Lockland, Rockingham sent Doctor Reuben Jones, and Lieutenant Moses Wright and Chester sent Colonel Thomas Chandler. Westminster's own delegates were Nathaniel Robinson and Joshua Webb. Windsor, as usual, was represented by Ebenezer Hoisington. This handful of east-side delegates was augmented for the first time by some new delegates from several towns just to the north of Windsor. These accessions were Major Thomas Murdock and Jacob Burton, who were comparatively substantial citizens of Norwich, Benjamin Emmons, of Woodstock, who was a political wire-puller of more than ordinary skill, and Stephen Tilden, of Hartford. The two last named had been colleagues of Ebenezer Hoisington, in the Cumberland County Committee. The towns of Pomfret, Barnard, and Royalton are reported to have sent letters favoring the idea of a new State.

While, on the face of things, there had been a distinct gain in the spread of the New State idea to the towns north of Windsor, the enlistment of Hartford, Norwich, and Royalton was made subject to a condition not expressed on the record but asserted by them within the next few years in a manner so violent as almost to wreck the New State in its infancy. In short, the co-operation of the three towns last mentioned, and others still further north that participated in later conventions—particularly the towns of Fairlee, Newbury, and Barnet—was based on their expectation that the New State when finally created should extend its jurisdiction to such towns on the east side of the Connecticut River as might choose to secede from New Hampshire. This had been mentioned to Colonel William Marsh, Doctor Jonas Fay, and Heman Allen when they visited Cumberland and Gloucester Counties in August, 1776.¹

Although Ira Allen made a showy gesture of dissent² from the version we have recorded here, the weight of testimony is against him.³ Nor did he enter a categorical denial. The point

¹ 2 *Gov. & Coun.*, 244-245. ² 5 *Gov. & Coun.*, 543. ³ See 5 *Gov. & Coun.*, 527.

came near to being pressed in November, 1776, by Colonel John Wheelock, son of President Eleazar Wheelock, of Dartmouth College, on behalf of several New Hampshire towns. Whoever were the parties interviewed by Colonel Wheelock, he was given to understand, as Ira Allen asserts, that since "they were not acquainted with the situation in New Hampshire, therefore they should do nothing about it."¹ Thus the matter was left in the air. With these parenthetical observations we return to the small group of men assembled at Westminster.

Giving full credit to each of those twenty-four delegates for what he was and for what he had accomplished to date, but ignoring fame subsequently achieved, they were not impressive as representatives of the whole New Hampshire Grants. Captain Heman Allen, who had had the distinction of waiting on the Continental Congress, was perhaps the most important. None had distinguished himself as a Revolutionary officer: none, except Colonel Thomas Chandler, had been a figure of consequence in colonial government. Yet these twenty-four men did not balk at the step before them. They proceeded with directness, determination, and dispatch. First of all, after getting down to business on the morning of January 16, they chose three east-side delegates—Spalding, Hoisington, and Murdock—"to examine into the numbers that have voted for the district of the New Hampshire Grants to be a separate state from New York and how many are known to be against it." Instantly Ebenezer Hoisington, as chairman of that committee of three, submitted the following amazing report:

"We find by examination that more than three-fourths of the people in Cumberland and Gloucester counties, that have acted, are for a new state; the rest we view as neutrals.

By order of the convention,

Ebenezer Hoisington, Chairman."

The records of the Congregational Church in Windsor show no public confession of untruthfulness made by Ebenezer Hoisington in connection with the submission of the report

¹ 1 *Gov. & Coun.*, 427-428.

just quoted. He may have soothed his New England conscience by the interpolation of the words "by order of the convention" or by the doubtful meaning of the qualifying words "that have acted"; but nobody then in the convention or out of it could have believed that anywhere near a majority of the settlers in Cumberland and Gloucester Counties had declared in favor of a secession from New York and the setting up of an independent State government while the Colonies were engaged in war with Great Britain. Six months later, when many more converts to the New State idea had been recruited and a State Constitution had been adopted, Ira Allen had grave doubts of a majority being in favor of the programme.¹ We must either whittle down Ebenezer Hoisington's report, so that it means practically nothing or else treat it as a mere trumpet blast of encouragement into which the question of truth or falsity enters not. Anyhow, it sounded well, and in the record it looked well. Such information as he had was doubtless based on the word or memoranda of Ira Allen, who asserted that he had spent sixty-seven days (from November 8, 1776, to January 14, 1777) in going through Cumberland and Gloucester Counties to get associations formed, petitions signed and collected, and to unite the people for a "full" convention.²

On the strength of Hoisington's report of east-side sentiment and on the assumption that the west-side towns were in accord and needed not to be canvassed, the convention on Thursday afternoon, January 16, 1777, unanimously adopted its first Declaration of Independence in these words:

"Voted, N.C.D., That the district of land commonly called and known by the name of New-Hampshire-Grants, be a new and separate State; and, for the future, conduct themselves as such."

That single sentence contained the new State's original Declaration of Independence. Who framed it nobody knows. Twenty-four delegates, representing a maximum of seven

¹ Allen's *History of Vermont*, p. 109.

² Thompson's *Vermont*, part II, p. 107, note.

west-side towns and fourteen Cumberland towns, voted for it. So great was Cumberland County's predominance in that small convention that Mr. E. P. Walton was moved to observe that "it may with truth be claimed that Cumberland County declared the independence of Vermont."¹

We call this the *first* Declaration of Independence because shortly thereafter came elaborations and revisions of elaborations to such an extent that one may not easily determine which of several is *the* Declaration of Independence. Indeed, immediately following the above unanimous vote, Nathan Clark, Ebenezer Hoisington, John Burnham, Jacob Burton, and Thomas Chittenden were appointed a committee "to prepare a draught for a declaration for a new and separate State." The delegates felt that something longer, more full of words and sound, and perhaps something of history and argument should constitute a declaration for general circulation. At the same time the convention chose Ira Allen, Thomas Chandler, Reuben Jones, Stephen Tilden, and Nathan Clark, junior, a committee on programme to prepare a plan for further proceedings. In the composition of these two committees it is worth noting that five east-side delegates and five west-side delegates were chosen, thus foreshadowing a policy with respect to balance of power which, for good or for evil, has characterized the management of State affairs in Vermont to the present day.

On Friday morning, January 17, both committees reported, and the reports of both received the unanimous endorsement of the convention.

In the amplified Declaration of Independence drafted by the committee of five, we find that Ebenezer Hoisington reverted once more to the resolution of the Continental Congress of May 15, 1776, as justification. It is set out fully in the Declaration immediately following a sketchy assertion of New York's hostility toward the lives and properties of a part of the community and seems to be treated as the cornerstone of the right to declare for separate statehood. This Declaration, which may be found printed in full in volume one of *Governor and Council*, at pages 40 to 44, and in Slade's *Ver-*

¹ 8 *Gov. & Coun.*, 391-392, note.

mont State Papers, at pages 69 to 70, is composed in a style superior to that of either of the versions which subsequently appeared in the newspapers or the abridgement which was contained in the petition to Congress. It gave at least one name to the proposed new State, viz., New Connecticut,¹ but omitted to define its boundaries other than inferentially. It proposed, also, that the convention "at the next adjourned session" should establish a "bill of rights" and a "form of government." Who was mainly responsible for the actual drafting is unknown. Both Ebenezer Hoisington and Thomas Chittenden were too nearly illiterate to have put it into its readable shape. Ira Allen would have been sure to have mentioned it as one of his works had he drawn it, and the style and substance are not like him.²

The convention next decided to publish a Declaration in the newspapers, but apparently thought that still further revision might be necessary, and for the latter purpose appointed Heman Allen, Thomas Chandler, and Nathan Clark a committee.

The plan for further proceedings had included the incorporation of the Declaration in a petition to Congress. This made necessary a committee and delegation to present the petition to Congress, and for this the convention chose Doctor Jonas Fay (who was absent), Colonel Thomas Chittenden, Doctor Reuben Jones, Colonel Jacob Bayley (who not only was absent but had never given countenance to the New State movement), and Captain Heman Allen. It was a list that sounded respectable in the ears of strangers. Its composition was two doctors, two colonels, and a captain. The captain, at least,

¹ Although Doctor Jonas Fay's manuscript record contains after the name "New Connecticut" the words "alias Vermont," it has been stoutly asserted that the name "Vermont" was not suggested at the time but was written in, months after the date of the Convention, by reason of the discovery that the name "New Connecticut" was already in use to describe an area in northeastern Pennsylvania (1 *Gov. & Coun.*, pp. 41 to 46, note).

² In Redfield Proctor's *Early Vermont Conventions*, p. 20, appears the erroneous statement that Doctor Jonas Fay was the draughtsman. Fay was not even present at the convention. Senator Proctor had perhaps confused the declaration prepared by Hoisington's committee with the declaration incorporated in the petition to the Continental Congress. See H. Hall's *Early History of Vermont*, p. 463.

was personally known to the Continental Congress, while Jacob Bayley was favorably known by reputation. Bayley probably would have been described as "General" Bayley, except that his rank as a general had been recently derived from New York State authority and recognition of it by this convention of secession might have proved embarrassing. The mere inclusion of his name is one more mark of the anxiety constantly felt by the New Staters lest, without the moral support of General Bayley's character, their cause would be thought weak.¹

The manuscript record of the convention as subsequently copied by Doctor Jonas Fay from notes kept by the clerk and assistant clerk, seems at this point to have omitted one measure which constituted the fifteenth item. This possibly was a resolution recommending to the several towns that they organize or reorganize themselves according to their original New Hampshire town charters rather than pursuant to New York law or any New York township patents. As will appear by subsequent Windsor town records a convention had so recommended, but whether such recommendation was made at Westminster on January 17 or at a convention at Dorset in the following month it is impossible to state.

The next item was the appointment of nine men as an east-side "Committee of War." Except for the inclusion of Colonel Thomas Johnson, of Newbury, the personnel was political rather than military. Ebenezer Hoisington was a member. In size it equalled a similar committee appointed for the west side the previous year, thus furnishing another example of the tendency to maintain equality in the distribution of offices on the two sides of the Green Mountains. The ignoring of such men as General Bayley, Colonel Joseph Marsh, Colonel William Williams, Colonel Jacob Kent, Colonel Peter Olcott, Major Joab Hoisington, and Captain Benjamin Wait as military advisers, indicated a desire to erect a new military department distinct from that already in the field under New York authority. Similar motives appeared in a recommendation to the several towns to choose new committees of safety if not satisfied with those already in office.

¹ For a copy of the credentials issued to this delegation, see 3 *Gov. & Coun.*, 499.

The convention next appointed agents to raise four hundred dollars on each side of the Green Mountains, to defray the expenses of the committee that should wait on the Continental Congress, passed a resolution exhorting all towns to be represented at the next convention, appointed Ebenezer Hoisington chairman of a committee to draft a letter "forbidding the delegates from Cumberland County sitting in the Hon^{ble} Provincial Congress of the State of New York" and adjourned to June 4th to convene "at the Meeting House in Windsor."

Ebenezer Hoisington's letter to Colonel Joseph Marsh, Major Simon Stevens, and Captain John Sessions, as Cumberland County's delegates to the New York State Convention, is found in the records of the last day's session at Westminster and reads as follows:

Westminster, 17th Jan^y 1777.

Gentlemen:—The General Convention consisting of Delegates from the Several Counties and Towns through the tract of Land known by the name of the New Hampshire Grants have met according to adjournment at Westminster the 16th inst. and have resolved and declared the above District of Land shall hereafter be a distinct State or Government, and the Inhabitants thereof shall have full authority to make such laws as they shall from time to time think fit.

The said Convention therefore desire and request that you will on sight hereof withdraw yourselves from the Convention of the State of New York and appear there no more in the character of Representatives for the County of Cumberland; as you were not chosen by a Majority of the people at large.

Gentlemen, I am your most obedient

Humble Servant

Ebenezer Hoisington, Chairman Sub. Committee¹

The concluding clause of the letter hardly sounds like Hoisington. Doubtless it was somebody's afterthought. Besides being a *non sequitur* it was a weak and dangerous suggestion, since it at once invited attention to the number of people who

¹ In all the copies this letter appears to be addressed merely to Stevens and Sessions. They were then in actual attendance at the New York Convention, while Colonel Marsh was on military duty in command of his regiment.

had voted to elect the twenty-four Westminster delegates. Small as had been the total vote cast for Marsh, Stevens, and Sessions, they had at least been chosen at a general election.

The abandonment of Westminster as a convention town and the selection of Windsor was probably prompted by a desire to make more easy the attendance of delegates from Gloucester County and the hope that General Jacob Bayley could be won over to the New State scheme. Another reason lay in the fact that Westminster itself now showed marked evidence of loyalty to New York.

At the conclusion of the session on January 17, Ira Allen busied himself for nine days at Westminster and elsewhere in collaboration with others in writing "a declaration for a state and other pieces for the Hartford papers."¹ The autobiographical item from which the foregoing quotation is extracted refers to the second revised Declaration of Independence² as printed in the *Hartford Courant*, of March 17, 1777, the advertisement³ of the adjournment to Windsor and the long-delayed "manifesto"⁴ which Colonel William Marsh, Solomon Phelps, and Ira Allen had been directed to prepare on the last day of the session of October 30, 1776. All of these articles subsequently appeared in the *Hartford Courant*. With whom Ira Allen worked in the preparation of these publications he does not state. Since his name as "clerk" is appended to all three, he obtained no little notoriety as they severally and separately appeared in print the following spring. They thus served to advertise him as a public character and secured circulation for his *Miscellaneous Remarks and Short Arguments*,⁵ published as a pamphlet by Ebenezer Watson, of Hartford, Connecticut, "about the month of May," 1777.

What we have termed the second revised Declaration of Independence omitted all reference to the resolution of the Continental Congress of May 15, 1776. It placed Vermont's right to independent statehood on the fact that the Continental Congress on July 4, 1776, had declared the Colonies independent of the Crown and had thereby rendered the "arbitrary" acts of the Crown, including the establishment of the Conne-

¹ Thompson's *Vermont*, part II, p. 107, note.

² *Id.*, pp. 52-53.

⁴ *Id.*, pp. 390-393.

² 1 *Gov. & Coun.*, 51.

⁵ *Id.*, pp. 376-389.

ticut River as the boundary between New Hampshire and New York, null and void. Such an argument by itself, of course, proved too much, for it would either make the Grants a part of New Hampshire or would invalidate the granting of the town charters by Benning Wentworth. The second revised Declaration seems to go even to this extreme by the assertion that the inhabitants of the Grants "may be truly said to be in a state of nature," yet they illogically thought themselves possessed of "property" and representing not only "towns" but "counties." This Declaration added one important feature to the two previous ones in fixing the boundaries: "South on the North line of Massachusetts Bay; East on Connecticut River; North on Canada line; West as far as the New Hampshire Grants extends."¹

The third revised Declaration of Independence,² which is really the fourth declaration, was incorporated in the petition to the Continental Congress. Though couched in more moderate language, it follows the plan of the next preceding declaration. It re-states the western boundary as a line twenty miles east of the Hudson River. The petition of which it is a part is erroneously dated January 15, 1777. The very first Declaration of Independence was not made until the day following, while the one contained in the petition to the Continental Congress was prepared subsequent to that date and was not delivered to the Continental Congress until April 8.

The news of what had been done at Westminster reached the New York Committee of Safety at Fishkill in three days. The first reports were exaggerated and gave the impression that the revolt was a complete and general success. From what has been shown in a previous chapter, it is clear that New York expected as much. Later reports of the small attendance at Westminster and the total failure to enlist Gloucester County in the movement for secession gave grounds for believing that the whole of the Grants might not soon throw off their allegiance to New York. General Abraham Ten Broeck, president of the New York Committee of Safety, was encouraged to belittle the whole movement. He wrote to John Hancock that out of eighty men who were expected at the

¹ 1 *Gov. & Coun.*, pp. 50-51.

² *Id.*, pp. 48-50.

Westminster Convention but twenty attended, and that Gloucester County and a great portion of Cumberland remained firm in their allegiance. He admitted, however, that the insurrection was dangerous. His information consisted, in part, of a letter written under date of February 19, 1777, by General Jacob Bayley, whose comments on the situation were singularly entertaining and illuminating.

General Bayley's letter, addressed to the New York Convention as "Dear Brethren," was written with what he termed "the utmost Concern for the Publick welfare of the United States and this in particular." By "this," he meant New York. He realized "the Absolute necessity of an Intiere Union of all the Friends of truth" and of "the American cause." He saw great danger in the action of the delegates at Westminster, whom he described as "all the Friends of hell Combined and using all their Deiabolicall Arts to Disunite us." He represented the secessionists as acting on the cry "Now is the time to separate." He expressed the belief that the "Chieff of Cumberland" would go in for the New State movement but that none from Gloucester would follow suit. Lamenting that his neighborhood was so remote from the centre of New York's government, he was in doubt whether it might not be better for Gloucester's soldiers to serve with the troops of Massachusetts or New Hampshire. Of course he would decline to wait on the Continental Congress as one of the committee appointed by the Westminster Convention. In the schism thus wrought between New York and the New Hampshire Grants he predicted very accurately the risk of the latter coming under the influence of Great Britain. His own view of adjusting matters he had endeavored to impress on Ira Allen and other New Staters when they sought his co-operation during the preceding November, and they had promised to adopt his suggestion of applying by petition to the New York Convention for relief.¹ The whole of General Bayley's letter, although atrociously spelled and in places somewhat incoherently expressed, is worth reading if one will patiently work out its

¹ This suggestion, it will be remembered, had been made by others. Compliance with it, even if promised, was probably never seriously intended.

meaning. It is printed in full in the fourth volume of the *Documentary History of New York*, at pages 560 to 561.

Two other letters written by General Bayley on February 26, throw further light on his appraisal of the situation. "I wrote you," he says, "last week Peticular Concerning our New State. I am afraid Cumberlin will not make any Draft of Men. Shall know to-morrow as I am now on my journey their."¹ And again: "Disordered men has Disordered Great Part of Cumberlin and the lower towns of Gloucester and by applying Proper Medicine they are in a hopefull way. . . .

"I do not look on myself a member of any State but New York."²

General Bayley's letter of February 19 contained an allusion to a convention of all the New Hampshire Grants called to meet at Dorset for the purpose of filling up Colonel Seth Warner's regiment. Of this convention, summoned by Nathan Clark in a notice dated January 30, Mr. B. H. Hall found mention in the town records of Chester.³ E. P. Walton, in a note in the first volume of *Governor and Council*,⁴ reluctantly verified Mr. Hall's reference; but neither a record of the minutes of such a convention nor a statement that such a convention was actually held has come to light. The Windsor town records, however, corroborate those of Chester in showing that notice of such a convention was issued. On February 13 there was a town meeting in Windsor, over which Captain William Dean presided. It was there "put to vote whether the town would send delegates to a Convention to be held at Dorset on the 19th day of February instant." The meeting voted in the affirmative on this question and chose Deacon Hezekiah Thomson and Ebenezer Curtis "delegates to attend at said Convention."

General Bayley's statement of the object of this Dorset Convention is very likely correct. Nathan Clark, who issued the call for it, was a member of the west-side Board of War. Warner, much to the distress of New York's Committee of Safety, had secured a commission as Colonel from the Conti-

¹ *Calendar N. Y. Rev. Papers*, vol. 2, p. 642.

² *Id.*

³ B. H. Hall's *History of Eastern Vermont*, p. 283, note.

⁴ *Gov. & Coun.*, pp. 51-52, note.

mental Congress with authority to recruit and command a regiment independently of New York's authority. It is suggestive that, following the date of the Dorset Convention, the freeholders and inhabitants of Windsor spent a part of two days—February 27 and 28—at a town meeting, at the Town House, devoted to the single subject of tendering an Oath of Allegiance to the United States of America to every inhabitant of the town. Not only the length of time consumed but the employment of agents indicates that certain of the inhabitants were reluctant in yielding to this appeal to their patriotism.

As at the meeting on February 13, Captain William Dean, a member of Windsor's Committee of Safety, was in the chair on the 27th and 28th. Ebenezer Curtis, who had been elected one of the delegates to Dorset, was chosen to administer the oath of allegiance. Richard Wait "and others" were instructed "to wate on a number of Delinquants att the west part of the town & Desire their attendance att the meeting." Captain John Packard and others were similarly employed to round up recalcitrants in the east part of the town. Recesses were taken and then final adjournment without written mention of the names of any who took or who declined to take the oath. Windsor possibly verified General Bayley's prediction that "Cumberlin will not make any Draft of Men."

Before the date of the last meeting Ebenezer Curtis had already posted "by request from a number of the freeholders and inhabitants of the town of Windsor" a notice of a town meeting to be held at the Town House on March 11. The request evidently emanated from Ebenezer Hoisington, who had decided to test some of the policies of the Westminster Convention in his home town. That he had secured local backers is evident from Curtis's statement that "a number" joined in the request. The following warning of the meeting shows Hoisington's plan.

"Whereas the New Hampshire Grantees on the west side of Connecticut River in General Convention judged it most expedient to transact all the public and political affairs in conformity to the Original Charter of the several towns granted under the Great Seal of Newhampshire,

“These are therefore to Notify and warn all the freeholders and inhabitants of the Town of Windsor to meet at the Town house in Windsor on the Second Tuesday of March next at ten o'clock beforenoon which is the Day appointed for the Annual Meeting according to the Newhampshire Charter, then and there to act on the following Articles, viz.,

“1^{ly} to Chuse a Moderator to Govern said meeting.

“2^{ly} to Chuse all Town Officers according to Law directed by the Charter.

“3^{dly} to see if the Town will Chuse a Committee of Safety for the town.

“4^{ly} to see if the Town will let the swine run at large the ensuing year.

“5^{ly} to act on any other articles the town shall think proper.

Given under my hand this 25th day of February, 1777.

By a request from a number of the freeholders and inhabitants of the town of Windsor

Eben^r Curtis, Town Clark.”

The reader will note that the town meeting was called for the regular day of New Hampshire town meetings.

For the third time in succession Captain William Dean acted as moderator. His election to this office shows that he had outlived the enmity of the previous decade or that the partisans of Israel Curtis and Benjamin Wait were no longer in the majority. The portion of the townspeople who still followed the leadership of Colonel Nathan Stone now made their last determined stand. They succeeded in defeating the project to reorganize the township under New Hampshire laws, and, no doubt, accomplished their purpose without great difficulty. They could at least point to the fact that by Windsor's confirmation patent from New York the titles to Windsor real estate were now perfectly secure. They could show that the town was legally organized under New York law and already had a full set of town officers whose terms did not expire until the following May. Above all remained the point that Declarations of Independence voted by twenty-four delegates at Westminster had not accomplished the erection of a new State government. Why should land titles and the exist-

ing regularity of municipal organization be put in possible jeopardy by attempting to reconstruct the town as a part of a new State which had not yet been born? These arguments prevailed; but the victory won by Colonel Nathan Stone was not personal. He fell in the contest. When it came to considering names for Windsor's Committee of Safety his name, although up to that time he had been chairman of the Committee, was rejected.

Windsor's new Committee of Safety as elected on March 11 consisted of Captain William Dean, Lieutenant Thomas Cooper, Ebenezer Curtis, Richard Wait, Jeremiah Bishop, Lieutenant Samuel Cook, and Joel Ely. The rejection of Colonel Stone might have indicated that he was to be replaced by Ebenezer Hoisington as Windsor's exponent of the New State idea and the man who was largely responsible for Windsor's selection as the place for the next adjourned session of the Convention, but evidently there were reasons why such a course seemed for the moment inexpedient.

CHAPTER XXXVII

WINDSOR IN THE YEAR 1777

LOOKING back at Windsor through a century and a half of perspective, we can see that before the year 1777 the town was a place of historic importance. If to no Windsor inhabitant nor to anybody else had this thought occurred before the year 1777, the events of that year must have impressed even the most stolid of Windsor's citizens with the fact that the town was destined to be noted if it had not already become so. Instead of being merely of the type of the neighboring towns—an area of mountains, hills, and meadows, with here and there a clearing and a farm amid the forests—Windsor must have acquired early in 1777 in the estimation of the townspeople a political tone or importance that distinguished it from all other towns on the New Hampshire Grants. At least, they knew in January that their town was to be the scene of a notable convention in the following June.

Let us here pause to review the township. Nothing, in all probability, that would now be called a village then existed. True, there were the grist-mill and the saw-mill just north of Mill Brook, on opposite sides of the main highway. Two hundred yards further north and on the west side of the main highway were the graveyard and the meeting-house. Probably just north of the meeting-house was the schoolhouse. On the east side of the highway between the grist-mill and the meeting-house yard was Reuben Dean's little dwelling and shop. With these exceptions, there was hardly anything but a succession of farms from south to north, along the main Connecticut River road. There were a few farms on the hills to the immediate west, up what is now State Street and along what we now call the County Road, a few more on the hills around that center later known as Sheddsville, and two or three others near the present site of Brownsville.

In the southeast corner of the town was the tract of five hundred acres which Benning Wentworth had reserved for

himself. Whether the Wentworth tract had been cultivated or inhabited in 1777 the writer has no means of knowing. To the north of it was property of Captain William Dean, who owned other lands throughout the township. Since the death of his wife Elisabeth he had married one named Abigail. His son Willard, whose wife's baptismal name was Parnel, lived with or near the captain. Among Willard Dean's children was a baby boy who was to be the first native of Windsor to graduate at a college. This was James Dean, who became the holder of professorships at both the University of Vermont and Dartmouth.

Between two of the Dean tracts on the Lower Meadow was the farm of the widow Isabel Patrick and her sons. Without asserting that they were all of the same family, we find Samuel Patrick, Benoni Patrick, Jacob Patrick, and Matthew Patrick in Windsor at an early date. Samuel, in the year 1773, had married Ama, daughter of Zephaniah Spicer, of Windsor and Cornish. There was also a Jane Patrick, who in the same year became the wife of Stephen Cady, of Cornish, long the town constable of Windsor. From Samuel Patrick descended a line of Windsor men and women who were held in esteem for many years.

North of the Dean and Patrick holdings came a large tract owned by Samuel Chase, of Cornish, and a small lot of river meadow belonging to the Reverend James Wellman, also of Cornish. Then we reach the region which now is known as Buena Vista. This was included in Captain Zedekiah Stone's large farm, which extended from the river westward across the Mill Brook and the site of the present Mill Pond and up on to the western hills. With the venerable Captain lived his youngest son, Caleb, who succeeded to most of his father's estate. Their house may have been the large dwelling, sometimes called the Denison place and in the writer's youth the home of the Teahan family, which stood south of the Mill Brook on the east side of the river road.

On the north slope of Buena Vista, west of the river road, and on both sides of the Mill Brook, though chiefly on the south, was a part of the farm of Captain Alexander Parmelee. He soon became one of Windsor's pushing and prosperous

men. To the west of the Mill Brook bridge and on the north bank of the stream, near the corner of Union and Main Streets, was Thomas Cooper's saw-mill. On the east side of the river road, as already stated, was the grist-mill of Elisha Hawley, whose property extended down the brook to the river and northward across the present Bridge Street and beyond. Besides being a miller, Elisha Hawley was a shoemaker. His wife was Azubah Russell. After her death he married Hannah, widow of another pioneer Windsor shoemaker, Duty Sayles. North of Hawley's was another tract belonging to Captain Parmelee, extending from the main thoroughfare to the river.

North of Parmelee's, on the east side of the road, was a lot belonging to Reuben Dean, who had learned the trade of silversmith and goldsmith. How he could have had patronage in Windsor is a puzzle. His title to fame rests on his having been employed by Ira Allen to make the first seal for the State of Vermont. North of Reuben Dean's the writer has not discovered the names of the early occupants or owners, until we strike several lots belonging to Watts Hubbard, Watts Hubbard, junior, and the estate of Israel Curtis. Then comes the lot just south of the road which now leads to the railroad station. On this lot stood the "Old Constitution House," which at that time, according to local tradition, was Elijah West's tavern.¹ Next north we strike a small lot belonging to Hannah West, and then the large farm of Jacob Hastings. Opposite Reuben Dean's, on the west side of the highway, was perhaps a piece of Parmelee's land, but just to the northward we meet the land occupied by the Meeting House and graveyard. We have been told that this Meeting House, or town house, stood to the south of the present Old South Church. Probably to the north of it, as has previously been suggested, was the schoolhouse. Bounded south by the graveyard, east by the river road, and north by the "road leading to the west part of the town" was the property of Gideon Cowles. This piece, as will be seen, was the land on which the Windsor Savings Bank, the Davis Block, the old Isaac Green and the

¹ See, however, *The Vermonter*, vol. 30, No. 11, p. 168. The Vermont Council in March, 1778, hired a room of one West (39 *Vt. State Papers*, MS., pp. 10-11).

old Captain Nathaniel Leonard homesteads, and several other buildings now stand.

Jacob Hastings's farm extended from the River up what is now the Common Hill, and included a large part, if not the whole, of State Street and the whole of the Common. Its western boundary was not less than three-fourths of a mile from the town street. North of the Hastings farm and of similar size was the farm of Watts Hubbard, senior, which had formerly belonged to Joab Hoisington. A portion, lying east and perhaps also to the west of the main highway, Watts Hubbard had deeded to his son Elisha. Next to the north along the River Road came some of the numerous holdings of Captain Steel Smith, whose home, "the first frame dwelling-house in Windsor," stood on the knoll north of the Pulk Hole Brook and west of the River Road. Beyond him to the north was a compact area belonging to William Smead. The northern bounds of the last tract were not far from the foot of the first hill leading up towards the Hourglass. Then came John Benjamin's farm, which he seems to have inherited from Caleb Benjamin and which extended from the river across the road and far to the west. Properties belonging to Benjamin Bishop¹ and Jeremiah Bishop separated the Benjamin farm from the very large property of Colonel Nathan Stone, which lay along the top of Hourglass Hill and extended down its northern side nearly if not quite to Bashan Brook. Another farm owned by Jeremiah Bishop lay to the north of Colonel Stone's and south of the two Burke farms. Of these last the southerly belonged to Isaiah Burke: the northerly, along the Hartland town line, to Solomon Burke.

West of the river farms and along the upper courses of the Hubbard Brook to the north of Paradise, the old map shows farms belonging to Ebenezer Curtis, Elnathan Strong, Hezekiah Thomson, and William Smead, junior. Ebenezer Hoisington's was still further to the west, while Solomon Emmons had a comparatively small farm somewhere near the southwest corner of Paradise. To the westerly of Emmons's place were the farms of Doctor David Hall, Nathaniel Atkins, the

¹ The Benjamin Bishop property seems to have been the same as the Pettes property at the north end of the flat.

cooper, and Ebenezer Howard, who was exceptional among the Windsor settlers for "making his mark" instead of signing his name. The northerly and northwestern part of the town had been sold, as has been stated, to Henry Cruger and Goldsbrow Banyar, of New York, and perhaps was unoccupied.

The road to the west or "back" part of the town left the River Road at the foot of our Common Hill. It is not safe to say that it followed exactly our present State Street. Possibly it passed to the south of or across the present site of St. Paul's Church. Certain old maps indicate that the church stands in what was once the highway. So far as was practicable, this road presumably extended westward on a straight course to what later was called Sheddsville, and thence in the same general direction to the Reading town line. Up this road, a mile or so from the town street, were the farms of Ebenezer Howard and Nathaniel Atkins, which have been already mentioned.

The major part of Benjamin Wait's considerable holdings were on the east slope of the Sheddsville Hill. If his brother, Richard Wait, had at that time a separate farm of his own, the writer has not been able to locate it. Near neighbors on the west of Benjamin Wait were Andrew Blunt and Asaph Butler. Their farms extended respectively to the south and north of the Sheddsville center. Asaph Butler's nine-year-old boy, Ezra, was destined to become the governor of Vermont. An older son, Joel, was one of the early Baptist preachers in the vicinity of Windsor. Next to the west of Andrew Blunt was a tract of one hundred acres belonging to Andrew Norton, whose properties were presently confiscated by the State as the penalty of his loyalty to his King.

Elihu Beach owned two hundred acres at or near the present site of Brownsville, while Joseph Woodruff and Levi Stevens divided between themselves some five hundred acres to the west or northwest of Elihu Beach.

Without extended surveys and a minute examination of recorded deeds, it is impossible exactly to locate the properties of particular individuals at that time. Even then, owing to the fact that most of the inhabitants then owned several

widely separated parcels, one is often at a loss to determine on which of several premises the owner made his home. It is therefore not the intention of the writer to attempt to say where each of the Windsor citizens then had his home farm, but rather to indicate the localities with which some of the early families seem to have been identified. The writer regrets especially that he cannot locate the homes which young Zebina Curtis and young William Hunter occupied at that early date; for among all those men who might be called Windsor settlers none attained stations of higher consequence or respect in the community than the two last named. Except for the descendants of Watts Hubbard, Richard Wait, and Ebenezer Hoisington, perhaps none of the early Windsor settlers named in this chapter have left descendants in the direct male line who remain identified with the town.

Of the Windsor industries of 1777 none, other than husbandry, equaled the importance of the grist-mill and the saw-mill. The manufacture of pearlash and potash is spoken of somewhat vaguely in the histories of most of the towns. Before 1777 Enoch Judd had a small plant for one or both of these industries on the river meadow property which we have spoken of as Alexander Parmelee's. Another similar establishment was just to the west of the main highway and just north of the road which leads up the Common Hill. These were passing industries incident to new clearings. The grist-mill, however, and the saw-mill continued. To the former came patrons from as far as Woodstock in the early days.

Ebenezer Curtis was an early Windsor blacksmith. While his stand would naturally have been somewhere on the main thoroughfare rather than on one of his several farms, the writer has not found its location. Duty Sayles and Elisha Hawley, the early cordwainers or journeyman shoemakers, and John Amos (or Ames), an early journeyman weaver of wool, we have already mentioned.

Colonel Jonathan Chase, of Cornish, at an early date established a ferry across the Connecticut River. The *Cornish History* states that his house was the mansion nearly opposite the eastern end of the present railroad bridge. If this be so, we should suppose the ferry to have been there or a little to the

northward. The first bridge across the river was not completed until 1796.

Windsor in 1777 was without a settled minister. It had had no lawyer since John Grout's brief sojourn and expulsion. It had a physician in the person of Doctor David Hall. Like many of his profession at that date he was rated according to the low standards of the times as both learned and skillful, and, like many of his neighbors, he was known to be intemperate. Although the *Hall Genealogy* speaks of him as a graduate of Harvard, the records of the college show that he was not.

In spite of having no minister, the Congregational Church of Windsor was a good deal of a power. There had been a revival in 1776. Good men and bad men were members of the church and gained and maintained standing through their membership. Even those members who were addicted to drink or profanity could, by public confession of their sins in open meetin', obtain a sort of popular absolution that raised them above their similarly erring neighbors who lacked the advantage of church members and could not resort to the same beneficent forum. The pillars of the Congregational Church in 1777 were Hezekiah Thomson, Ebenezer Curtis, and Ebenezer Hoisington. It was through the last named of these rustic worthies, as has already been demonstrated, that Windsor had acquired most of its political intimacy with the "New Staters" in the other towns on the New Hampshire Grants.

If the Windsor people up to this time had been somewhat indifferent to the New State movement and to the activities of their determined delegate in that behalf, the knowledge that Windsor was to be the scene of a secessionist convention must have awakened in the inhabitants a new interest in politics. As the various issues of the *Hartford Courant* came up the Connecticut Valley with Ira Allen's "pieces" in them, and as reports from Philadelphia told of the Continental Congress receiving a petition for statehood tendered by settlers on the New Hampshire Grants, Windsor became more keenly aware that the town was involved in a cause of great moment. It is possible that a convention of which no journal has come to light was actually held in Windsor in the month of March.

We have, at any rate, the lines in the diary of Samuel Stevens, of Charlestown, who recorded under date of March 19, 1777: "I set out for Windsor, where a meeting was held by the people of the several coun[ties] of Cumberland, Gloucester & Charlot who are or design to form themselves into a new State called new Connecticutt." Not the least exciting item of news was the report of the suggestion and encouragement given to the delegates from the Grants at Philadelphia by Thomas Young.

Doctor Thomas Young for years had been one of the radical and not inconspicuous Whigs of the northern colonies. His acquaintance with Ethan Allen is said to have dated back to the time when the latter lived at Salisbury in Connecticut, and when Doctor Young made his home in Dutchess County in New York. Later we find Doctor Young in Albany: later yet, in Boston, where his name was associated with Samuel Adams, James Otis, and Joseph Warren. Having moved to Philadelphia he became, according to John Adams, an advocate of the notions of Thomas Paine as set forth in *Common Sense*, and was instrumental in spreading what John Adams called "anarchy."¹ That he was largely responsible for launching the State of Vermont none may deny.

Doctor Young, on examining the petition and declaration which Doctor Jonas Fay, Doctor Reuben Jones, Colonel Thomas Chittenden, and Captain Heman Allen had brought to Philadelphia, became greatly impressed with the justice of the case, but felt that the claim was not in proper form and that the application for recognition by Congress was premature. The defect in form was the omission to refer, as the first revised declaration had done, to the resolution of the Continental Congress of May 15, 1776, recommending that the colonists form governments suited to their respective needs. That omission being remedied, Doctor Young advised that a constitutional State government should actually be organized, and that when the delegates should again wait on the Continental Congress with such a record of achievement, their application would not be gainsaid. His advice he embodied in a letter addressed under date of April 11, 1777, "to the In-

¹ Hall's *Early History of Vermont*, p. 499.

habitants of Vermont, a free and Independent State, bounding on the River Connecticut and Lake Champlain," followed by a postscript dated April 12. As an enclosure he sent a certified copy of the Continental Congress's resolution of May 15, 1776. The text of the two communications follows:

TO the INHABITANTS of VERMONT, a Free and Independent State, bounding on the River CONNECTICUT and LAKE CHAMPLAIN.

PHILADELPHIA, April 11, 1777.

GENTLEMEN,—Numbers of you are knowing to the zeal with which I have exerted myself in your behalf from the beginning of your struggle with the New York Monopolizers. As the Supreme Arbiter of right has smiled on the just cause of North America at large, you in a peculiar manner have been highly favored. God has done by you the best thing commonly done for our species. He has put it fairly in your power to help yourselves.

"I have taken the minds of several leading Members in the Honorable the Continental Congress, and can assure you that you have nothing to do but send attested copies of the Recommendation to take up government to every township in your district, and invite all your freeholders and inhabitants to meet in their respective townships and choose members for a General Convention, to meet at an early day, to choose Delegates for the General Congress, a Committee of Safety, and to form a Constitution for your State.

"Your friends here tell me that some are in doubt whether Delegates from your district would be admitted into Congress. I tell you to organize fairly, and make the experiment, and I will ensure your success at the risk of my reputation as a man of honor or common sense. Indeed they can by no means refuse you! You have as good a right to choose how you will be governed, and by whom, as they had.

"I have recommended to your Committee the Constitution of Pennsylvania for a model, which, with a very little alteration, will, in my opinion, come as near perfection as any thing yet concerted by mankind. This Constitution has been sifted

with all the criticism that a band of despots were masters of and has bid defiance to their united powers.

“The alteration I would recommend is, that all the Bills intended to be passed into Laws should be laid before the Executive Board for their perusal and proposals of amendment. All the difference then between such a Constitution and those of Connecticut and Rhode-Island, in the grand outlines is, that in one case the Executive power can advise and in the other compel. For my own part, I esteem the people at large the true proprietors of governmental power. They are the supreme constituent power, and of course their immediate Representatives are the supreme Delegate power; and as soon as the delegate power gets too far out of the hands of the constituent power, a tyranny is in some degree established.

“Happy are you that in laying the foundation of a new government, you have a digest drawn from the purest fountain of antiquity, and improved by the readings and observations of the great Doctor Franklin, David Rittenhouse, Esq., and others. I am certain you may build on such a basis a system which will transmit liberty and happiness to posterity.

“Let the scandalous practice of bribing men by places, commissions, &c. be held in abhorrence among you. By entrusting only men of capacity and integrity in public affairs, and by obliging even the best men to fall into the common mass of the people every year, and be sensible of their need of the popular good will to sustain their political importance, are your liberties well secured. These plans effectually promise this security.

“May Almighty God smile upon your arduous and important undertaking, and inspire you with that wisdom, virtue, public spirit and unanimity, which insures success in the most hazardous enterprizes!

“I am, Gentlemen, Your sincere friend and humble servant,
THOMAS YOUNG.

April 12, 1777.

“Your Committee have obtained for you a copy of the Recommendation of Congress to all such bodies of men as looked upon themselves returned to a state of nature, to adopt such

government as should in the opinion of the Representatives of the people best conduce to the happiness and safety of their constituents in particular and America in general.

"You may perhaps think strange that nothing further is done for you at this time than to send you this extract. But if you consider that till you incorporate and actually announce to Congress your having become a body politic, they cannot treat with you as a free State. While New-York claims you as subjects of that government, my humble opinion is, your own good sense will suggest to you, that no time is to be lost in availing yourselves of the same opportunity your assuming mistress is improving to establish a dominion for herself and you too.

A WORD TO THE WISE IS SUFFICIENT."

It will be observed that Doctor Young chose to address himself to the inhabitants of "Vermont." Years before, the Reverend Samuel Peters, on a journey to the New Hampshire Grants, says he declared that the region should bear the name "Verd-Mont" as the French equivalent of Green Mountains.¹ Members of the Peters family who settled in Thetford and Bradford adhered to the earlier form of spelling for some years after the establishment of the Constitution. After Doctor Young's suggestion the spelling generally conformed to his, and was so written in the fourth revised Declaration of Independence and in the Constitution, although it was not infrequently written by individuals as "Vermount" and sometimes as "New Vermount." The president of Yale College at first spelled it "Veremont."

On top of Doctor Young's exciting advice came the news that New York had agreed on a State Constitution on April 20. It was published on April 22. Printed copies of this document were soon in circulation on the Grants, with an ordinance for the holding of the elections, and about contemporaneously came copies of the somewhat belated printed pamphlet of *Miscellaneous Remarks*,² from the pen of Ira Allen. This pamphlet, composed with remarkable force and ingenu-

¹ Compare Allen's *History of Vermont*, p. 259.

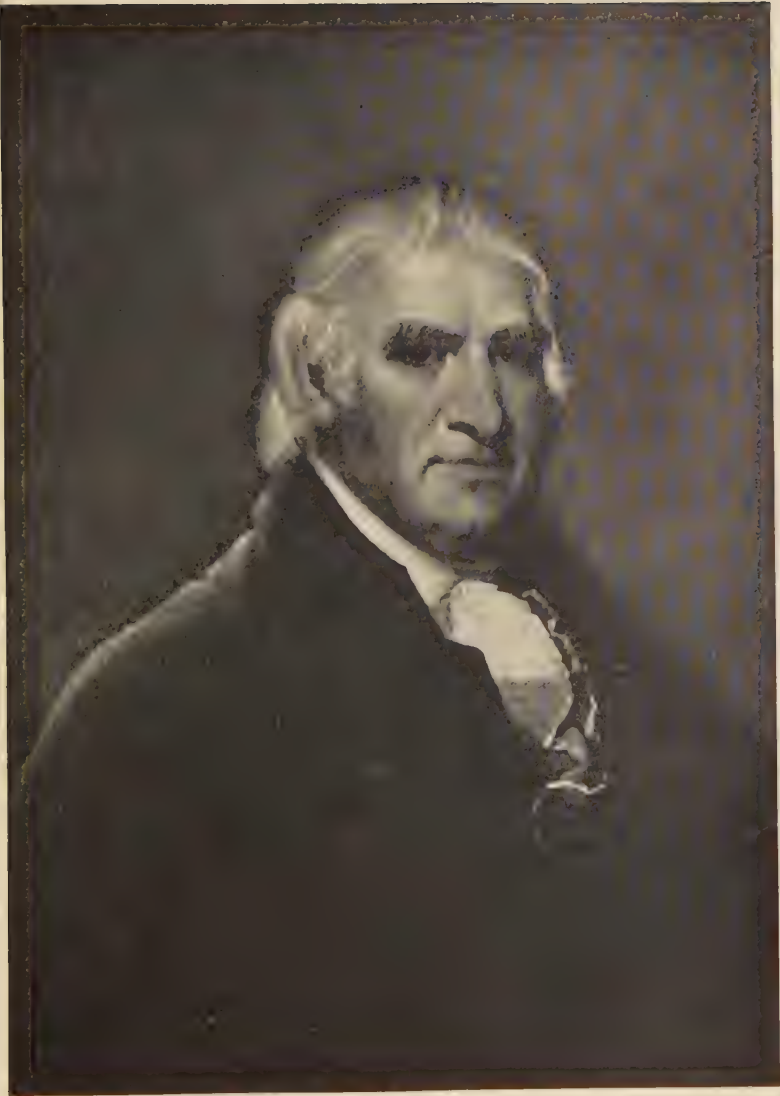
² Copied in full in 1 *Gov. & Coun.*, at pp. 376-389.

ity, is a noteworthy production. A prophet, even if he is a false prophet, is not without honour save in his own country, and the document which Ira Allen undertook to meet by argument and asseveration in his *Miscellaneous Remarks* had lost some of its edge by lapse of time. These considerations lead one to suspect that Thomas Young's suggestion and the New York Constitution were by far the most potent factors in bringing the secession to a successful culmination.

So distasteful to the mass of the settlers on the New Hampshire Grants were some of the provisions of the New York State Constitution that the whole flood of current literature now disseminated had but one tendency. Every paper became a brief for secession and independent statehood.

Governor Hiland Hall, at pages 246 to 248 of his *Early History of Vermont*, details in an admirable review of New York's Constitution the particulars in which that document gave offence to the settlers on the Grants. He mentions its affirmance of the New York Provincial Land Grants, the prospect of a continuance of quit-rents, the property qualifications for voters and some of the office-holders, the three-year term for the governor, the appointment of all judicial officers, and some of them for good behavior instead of for fixed terms of years, and the creation of a select council of revision to pass on all legislation. He omitted to cite as one of the objectionable features the division of the State into assembly districts and senate districts. To the inhabitants of the Grants, accustomed as they had been to regard each separate town as a unit entitled to a separate representative,¹ it must have been peculiarly displeasing to discover that the whole of Cumberland County was to be accorded only three representatives, and that Gloucester County would have but two. These two counties were grouped with Charlotte County into one senate district which would have three senators. If we refer back to the code of instructions which Ebenezer Hoisington's committee handed to Cumberland's delegates the year before, we can see how far the New York Constitution fell short of the specifications. Though a no less upright and distinguished American patriot than John Jay was largely responsible for

¹ Compare, on this point, 5 *Gov. & Coun.*, pp. 508-509.



GEORGE CLINTON
GOVERNOR OF THE STATE OF NEW YORK

From a painting by Ezra Ames

the form of New York's Constitution, and although that Constitution served the needs of New York's people for nearly half a century, it did not provide a frame of government that the settlers on the New Hampshire Grants with their New England traditions would endure.

The "Manifesto" prepared by Ira Allen and to which we have already referred, contained one item that can hardly be construed otherwise than as a personal attack on Colonel Nathan Stone. It will be remembered that Stone had been a justice of the peace, an assistant justice of the Cumberland County Court, and a militia colonel by New York appointment. Nobody on the Grants had been more active than he in securing re-grants or confirmation charters. In several applications for re-grants other than with respect to Windsor's, he had acted as an agent. The reader will see how sharply the following quotation from the "Manifesto" must have struck home:

"The methods taken by the legislative power of New-York in erecting the Counties of Cumberland and Gloucester was not (by them) intended for the benefit of the inhabitants, as may appear by their appointment of . . . such persons who by their immediate influence were most likely to prove subservient in bringing the inhabitants of the said Counties into a disposition to apply to the power of New-York for a regrant of the lands in said County; and it's to be observed the most of the civil magistrates and military officers were so appointed that they were great friends to the legislative body of New-York. Those persons thus appointed did not fail to use their influence with the inhabitants to get themselves appointed agents to transact a business of that kind at the court of New-York. The issue of which was, that regrants over the great part of the lands were then obtained; and the extravagant patent fees, together with the fees of the agents, amounted to so much that many of us were obliged to have a considerable part of our lands disposed of (thus regranted) at a very moderate price, to defray the charges aforesaid, and on said subsequent patents was added more than three-fold quit-rents." ¹

¹ This "Manifesto" may be found in 1 *Gov. & Coun.*, pp. 390-393.

Of course this quotation seems unfair; but party spirit was running high, and it is to be remembered that Ira Allen's *History of Vermont*, written years later, revealed in a passage already discussed a lasting grudge against Colonel Nathan Stone. We shall discover later how local hostility to Colonel Stone took still more severe expression.

Of course, here and there upon the New Hampshire Grants, were several instances of effort to stem the tide of secession. Most noteworthy of all, perhaps, was the position of the substantial town of Brattleborough, where the representation was made—probably with truth—"that all the people in this Town are Loyal to the State of New York. . . ." ¹ So strongly did Brattleborough feel on the subject of allegiance to New York that the town sent a delegate in the person of its townsman, Israel Smith, to wait upon the New York Convention and explain conditions existing upon the Grants. Smith was accorded marked respect by the New York Convention, as is attested by the report of the committee appointed to confer with him,² and he was no doubt instrumental in inducing Gouverneur Morris to offer to the Convention on May 7, 1777, a resolution that the troublesome quit-rents be abolished and that overdue quit-rents be remitted. This wise recommendation, if made earlier, might have accomplished something, but it came late in the session and disappeared in a committee reference.

Captain John Sessions, still faithful to New York, but at the time on leave of absence from his chair in the New York Convention, wrote from his home at Westminster his views of those critical days. A portion of his letter, addressed to John McKesson, clerk of the New York State Convention, follows:

"Sir: Westminster, April 21st 1777.

I received your favour of the 19th of March and am obliged to you for those tokens of respect you manifest, and wish it was in my power to comply with your request in attending Convention; but the situation of affairs are such in our county (together with my own) that it is almost impracticable. I am

¹ 4 *Doc. Hist. N. Y.*, 564.

² *Id.*, pp. 564-566.

anxious to hear the determination of Congress with regard to the new State; I have lately had an opportunity of conversing with General Bayley and Colonel Marsh, and to my satisfaction I find a different disposition in them from what I had expected. Colonel Marsh, having received orders of late, marched to Ticonderoga with his regiment, whereby he manifested his loyalty to the State of New York; and I hope, if prudent measures are taken, this new-fangled scheme will, like the house of Saul, wax weaker and weaker. I ardently wish that some decisive measures might be taken that the sword of justice and sceptre of mercy may be properly exercised. I have no disposition to extenuate the faults of those who manifest such contempt for the authority of New York, yet I could wish that every obstacle might be removed with respect to the title of lands, etc. I find that what was proposed by some gentlemen when I was at Convention relative to accommodating our difficulties would be very agreeable to many people; and I hope something similar thereto may take place, excepting the quit rents, which I find to be a delicate point; many, it seems, would rather prefer what they call a land tax, but it is not for me to dictate in this matter. I doubt not some equitable measures will be taken by the Honourable Convention or Legislature of the State.”¹

Sessions concluded his letter by mentioning a recent visit to Windsor, where he met General Bayley and James Clay, and by making sundry recommendations for the future handling of the accounts of the Rangers.

A letter addressed by Colonel William Williams to the New York Convention in response to military orders, showed that he also was loyal or at least provisionally loyal. His date line is “County of Cumberland, State of New York, Wilmington, April 13, 1777.” He probably reflected pretty accurately the situation when he said:

“I find that in general the men are averse to go out under the State of New York, neither do I think it possible for me to raise any men. They are ready to go out under the notion of New Hampshire Grants, or a new state; but for my part I

¹ 2 *Journal, N. Y. Prov. Cong.*, pp. 420-421.

am willing to serve under York until the matter can be decided by the Continental Congress.”¹

Although dwelling in a locality where there were more outspoken New York sympathizers than in any other part of the Grants, Colonel William Williams seems to have had far less authority with his Lower Regiment than had Colonel Joseph Marsh with the Upper Regiment.

The ordinance directing the holding of elections under New York's Constitution specified the town house at Windsor as one of six polling places in Cumberland County.² It also designated Doctor Paul Spooner, of Hertford (Hartland) as county sheriff. This office he refused to accept. Nor did Windsor open its town house for the New York elections. Although no minutes of Windsor's annual town meeting for the year 1777 have come to light, there is evidence that such a meeting convened on May 20. The following paper, filed with the clerk of the Cumberland County Committee, and forming a part of the Pingry Collection, shows that such a meeting was called and that Windsor declined to act under New York's election ordinance:

“At an Annual Town Meeting held at the Town house in Windsor on the twentieth Day of May past, after the Choice of a Moderator it was put to Vote whether the Town would proceed to Act according to the Orders from the State of New York; Voted in the Negative by a great majority.

Ebn^r Curtis, Town Clark.

To the Chearman of the County Committee.”³

While this vote came pretty near to unqualified secession, Ebenezer Hoisington made the situation even more plain by a letter which he presently sent to the County Committee. That committee, as the reader will remember, adjourned on November 9, 1776, to meet on the first Tuesday of June, 1777.

¹ 2 *N. Y. Journal Prov. Cong.*, p. 431.

² B. H. Hall's *History of Eastern Vt.*, p. 219.

³ 1 *Gov. & Coun.*, 368. It is possible that Windsor's town meeting sought to nullify other orders of the New York Convention, in addition to the election ordinance. See pages 361 and 362 in volume 1 of *Governor and Council*.

Hoisington's letter seems to have been written on the latter date, but there is no evidence to show that he presented it in person. Like Ebenezer Curtis's transcript, it has been preserved among the County Committee's records. This is what Hoisington wrote:

"Whereas I the Subscriber am the member of the County Committee of Cumberland to represent the town of Windsor in Convention this third day of instant June, Do now in behalf of s^d Town Enter my protest against any proceeding under the State of New York either directly or indirectly as to any Jurisdiction over s^d town.

Ebenezer Hoisington."

Unless Hoisington exceeded his authority—and this seems hardly probable—Windsor had determined to place itself by written word in the secessionist column. The town of Townshend did likewise. Brattleborough, Hinsdale (Vernon), Putney, Westminster, Springfield, Weathersfield, Kent (London-derry), Hartford, and possibly Pomfret still remained loyal or partially loyal to New York. Other Cumberland towns, although not making written announcements, were generally for secession, and the ensuing sessions of the Cumberland County Committee were so poorly attended as to become almost perfunctory.

CHAPTER XXXVIII

THE JUNE CONVENTION

THE draft of a declaration of independence which Nathan Clark, Ebenezer Hoisington, John Burnham, Jacob Burton, and Thomas Chittenden had submitted at Westminster on January 17, and which had been immediately accepted by the convention, ended with the provision that the privileges and immunities which were sought "shall be regulated in a bill of rights, and by a form of government, to be established at the next adjourned session of this convention." On the same day the Westminster Convention adjourned to the first Wednesday of June to convene "at the Meeting-House in Windsor." Printed notice of this adjournment appeared in the *Connecticut Courant*, of Hartford, in the issue of April 14. The intention obviously had been that at the June session the "bill of rights" or constitution for the New State should be adopted and a State government established. This expectation, together with the favorable season of the year and the absence of movement by the British troops in the immediate vicinity of the New Hampshire Grants would be sufficient to account for the generous attendance at Windsor on the morning of June 4, 1777.

Jonas Fay's record book gives a list of seventy-two delegates present at the opening of the June convention. There his record, after setting forth that Captain Joseph Bowker was in the chair and that Lieutenant Martin Powell was chosen assistant clerk, stops short, never to be resumed. Of the seventy-two delegates, thirty-six¹ were credited to twenty-two west-side towns and a like number to twenty-seven east-side towns. Ebenezer Hoisington again appears for Windsor, and on this occasion one finds in attendance for the first time several delegates from towns in Gloucester County. How true the list

¹ This number is obtained by counting Captain Josiah Powers, the delegate from Neshobe (Brandon), and Captain Josiah Powers, the delegate from Whiting, as two individuals. Mr. E. P. Walton thinks that Whiting's delegate was Captain Jeremiah Powers.

may be one cannot be sure. It differs from the list of those reported in the *Connecticut Courant* of June 30 as actually composing the convention and voting. In face of the New York leanings of the towns of Brattleborough and Kent (Londonderry) one cannot but be surprised and suspicious at finding Israel Smith listed as the delegate of the former and Edward Aiken as the delegate of the latter. Number of delegates and number of towns represented were, of course, of prime importance, and we may assume that such objectives, by hook or crook, had been pretty well attained. Doubtless, with the possible exception of days when military bodies had passed through or camped in Windsor—if there had been any such occasions—the town had never before received such an influx of visitors as on June 4, 1777. Where they all lodged is a question for study.¹

In quality the personnel of the June convention showed improvement over its predecessors. While the old agitators, such as Heman and Ira Allen, Jonas Fay, Thomas Chittenden, Ebenezer Hoisington, Reuben Jones, and Leonard Spalding were there in force and probably in control, there were others present who may have questioned whether secession from New York was of greater importance than a successful issue in the war for American independence. We should expect that Captain Ebenezer Allen as Tinmouth's representative, Colonel Joseph Marsh, of Hartford, Colonel Peter Olcott, of Norwich, Simeon Hathaway, of Bennington, and several others were American patriots first and "New Staters" second. Then, too, we find present such a man as Benjamin Spencer, of Clarendon, whose Loyalist tendencies soon manifested themselves. The results of the convention, however, indicate that unanimity finally was reached.

The important pieces of work before the convention, viz., the adoption of a bill of rights or constitution and the establishment of State government were neither accomplished nor attempted. Doctor Thomas Young's advice had embraced the taking of certain preliminary steps which precluded precipitancy. He had recommended that the assembly which

¹ For the list of delegates see *Early Vermont Conventions*, fac simile of Jonas Fay's records, pp. 69-70; *Vt. Hist. Soc. Coll.*, vol. I, pp. 48-49.

should form the constitution ought to be chosen in the following way: "Invite all your freeholders and inhabitants to meet in their respective townships and choose members for a General Convention to meet at an early day to choose Delegates for the General Congress, a Committee of Safety and to form a Constitution for your State." The members of the existing convention were well aware of the informality of its creation, the laxness of the rules by which it had been governed, and the absence of any uniformity in the instructions given or authority vested in the delegates by their respective constituents, and could well appreciate the desirability of starting afresh with a common understanding, a common and definite purpose, and a clean record of honestly elected delegates.

However disappointing it may have been to the members of the June convention to find that they were not to perform the more serious functions for which they had assembled, there were sundry other important items which occupied the convention for the better part of four days, and which must have been interesting to those delegates who paid attention to the proceedings and understood what was going on. And probably all present did give their best attention, for the situation was grave and of concern to every settler.

In the absence of any minutes of the session we can rely only on the subsequently published documents to tell what transpired. Of lasting effect was the decision as to the name to be given to the New State. On this point the delegates were told that the name New Connecticut had already been appropriated by a district on the Susquehanna River and that it would be unsatisfactory to have that name duplicated on the New Hampshire Grants. What better substitute could there be than that which had struck the fancy of their Philadelphia mentor? He had, in fact, already named their district for them. What more natural course was there than to pay him the compliment of accepting his choice? "Vermont" it then became by unanimous vote.¹

¹ Samuel Stevens, of Charlestown, seems to have received the news imperfectly, for he entered in his diary on Saturday, June 7, that "this week the People of the Several Countis on the west side of the River Resolved themselves to be a State by the name of New Connecticutt."

Simultaneously, it seems, with the selection of the new name, the delegates followed the custom of vowing brotherhood between themselves "by all the ties held sacred among men" and vowing resistance to Great Britain. They also expressed the vain hope that there might be amity between New York and the New State, but did not mince matters in reciting anew the list of grievances which the settlers upon the Grants jealously nursed against the former Province of New York and the State into which that Province had been converted. These grievances the convention determined to restate for publication, so that strangers and neighbors alike might understand the justification for secession. In fact, the omission to advertise these grievances at the time the declaration of independence had been announced was voted to be an accident or mistake.

The grievances, or "complaints," as they were called, which filled fifteen paragraphs, may be considered as constituting the matured form of the "case" against New York. So vital were these points considered that they were again made use of when it came time to prepare the preamble for the State Constitution. It is well to enumerate them here so that the reader may see the whole sum and substance of a controversy which, fourteen years later, was adjusted by complete relinquishment by New York of all her claims on the payment of the paltry sum of thirty thousand dollars.

The first count of the indictment was that Cadwallader Colden's "false representation" of the wishes of the settlers on the Grants had led to the establishment of the Connecticut River as the eastern boundary of New York. Second, that New York had charged two thousand three hundred dollars per township for a confirmation patent and had trebled the quit-rents. Third, that the New York judges had declared the New Hampshire Charters void. Fourth, that New York, in pursuance of court decisions, had issued writs of possession for lands and had backed up the sheriffs by armed forces. Fifth, that a New York statute provided a punishment of fine and imprisonment for refusing to assist a sheriff in executing a writ of possession. Sixth, that the governors of New York had issued grants for land within the New Hampshire Grants

in violation of the Crown's orders of 1767. Seventh, that "they" have "threatened to excite the King's troops to destroy us." Eighth, that "they" have offered rewards for the apprehension of those who dared boldly to appear in defence of their just rights. Ninth, that "they" passed acts of outlawry imposing the punishment of death on certain alleged offenders without benefit of trial. Tenth, that "they" still unjustly claimed the lands upon the Grants and thereby retarded settlement of the territory. Eleventh, that "they" have hired Scottish troops to drive "us" out of possession. Twelfth, that "they have sent savages on our frontiers to destroy us." Thirteenth, that "they" erected Cumberland and Gloucester counties and established courts therein after Great Britain had discountenanced such procedure. Fourteenth, that the New York State Convention had voted that all quit-rents due the King should be payable to the New York State government. Fifteenth, that the former government of New York had used every means to defraud the settlers on the Grants out of their property.

The indictment, thus composed partly of truth, partly of half-truths, partly of exaggerations, and partly of obsolete matter that had ceased to be material, closed with a brief statement of fruitless petitions for redress made to Great Britain and the legislative authority of New York, and a reminder that "our local situation alone" was a sufficient reason for seeking independence. Although it was an effective campaign document, whether viewed as a rallying cry for the settlers on the Grants or as a bid for sympathy among the other States, it somewhat singularly made no attempt whatever to capitalize those features of New York's Constitution which had given new and solid impetus to the revolt.

In the *Connecticut Courant* of June 30, in which these complaints were printed, together with the names of seventy-two delegates who were present and who with one exception voted to "proceed to form" a new State under the name of Vermont, we find that three men whom Jonas Fay had recorded as delegates were not mentioned. These were Leonard Spalding, of Dummerston, Edward Aiken, of Kent (Londonderry), and Andrew Spear, of Reading. In their places, according to

the *Courant's* list, were Joshua Webb, of Westminster, and one "Capt. William Curtis." To read the *Courant's* list correctly by towns, one must read across the two columns of names instead of reading the first column throughout before beginning with the second. By the former method the name of Captain William Curtis follows that of Ebenezer Hoisington and precedes the names of the two Hertford (Hartland) delegates. Curtis—if that was his name—was therefore brought in as a Windsor delegate, and probably was none other than Ebenezer Curtis; but the "Capt. William" suggests also the possibility that the full name of the new delegate may have been Captain William Dean. With the addition of Webb and "Curtis" and the name of "Amaziah Woodworth," who was not mentioned by Fay, the list equals in number those originally recorded by Jonas Fay as present at the initial roll-call. The *Courant's* statement that they were "all convened at the town house in Windsor" shows that Windsor's town house and meeting house were one and the same building.¹

This convention directed the jail-keeper at Westminster to hold prisoners at the convention's orders, directed the County Committees of Cumberland and Gloucester and all New York commissioners appointed to seize the estates of "enemical" persons to desist from further activities, and directed the Committees of Safety "acting under the authority of this State" to seize the persons and estates of "enemical" persons. The latter committees were empowered to examine and punish "suspected enemies"—with death, if need be—and keep the properties of such prisoners "for the use of this State." During the convention's recess the orders of the president or vice-president "of this State" with his council were to be supreme.² With these touches and with the absence of any limitations to the word "enemical" was begun the reign of terror which lasted until long after the organization of State government under the Constitution.

The convention took special care to order that copies of the resolution of Congress of May 15, 1776 should be sent to the several towns, so as to give to those who were in doubt the

¹ For the *Connecticut Courant's* record, see 1 *Gov. & Coun.*, pp. 54-57.

² 1 *Gov. & Coun.*, pp. 60-61.

hint that the Continental Congress actually favored independent statehood for the Grants. The convention, having fixed June 23, 1777, as the day when each town should elect delegates to a constitutional convention, directed that such delegates should meet "at the meeting-house in Windsor, within said State, on the second day of July next," first, to choose delegates to attend the general Congress; second, to choose a Committee of Safety, and, third, "to form a Constitution." By reference to Doctor Thomas Young's letter it will be seen how implicitly his instructions were followed.

Ira Allen's *History of Vermont* asserts that the June convention appointed a committee of four to wait on the commander of Fort Ticonderoga and consult as to defences. Allen also mentions the appointment of a committee to make a draft of a constitution.¹ Mr. E. P. Walton, out of the kindness of his heart, has conjectured as to the membership of the latter committee,² but since Doctor Young had already thoughtfully supplied a ready-made constitution, the work of such a committee could not have been exacting. The session seems to have ended on June 7 with a proclamation for a day of fasting and prayer.³ Among other prescribed supplications the people of the Grants were recommended to implore God to "direct in our election of members for establishing government," thus showing a belief that they had not yet achieved that end. Ira Allen's statement that the convention adjourned to July⁴ is open to question because it would appear that the existing convention had performed all its functions and had finally dissolved in the expectation that the work of State formation would be taken up by a newly elected body.

At the time that the large and distinguished June convention was performing with efficiency at Windsor, the old Cumberland County Committee was tottering on its last legs at Westminster. A dozen men, representing the towns of Westminster, Putney, Brattleborough, Hinsdale (Vernon), Hartford, Springfield, Weathersfield, Kent (Londonderry), and possibly Pomfret are recorded as present. In the list we find John Dana, of Pomfret, who was also recorded as present at Wind-

¹ Allen's *History of Vermont*, p. 92.

² *Id.*, pp. 59-60.

³ 1 *Gov. & Coun.*, p. 58, note.

⁴ Allen's *History of Vermont*, p. 92.

sor at the same time. For two days, June 4 and 5, the committee sat without accomplishing anything of public consequence, and then adjourned to June 17. A session from June 17 to 18 merely marked time, with only seven members present.

A session of the Committee of Cumberland County on June 26 at Brattleborough called out a dozen committeemen, viz., James Clay and Lucius Wilson, of Putney, Michael Gilson, of Westminster, Obadiah Wells and John Sargent, of Brattleborough, Luke Knoulton, of Newfane, Hilkiah Grout, of Weathersfield, and Colonel Eleazar Paterson and Amos Tute, of Hinsdale (Vernon). A sub-committee of three, consisting of James Clay, Colonel Paterson, and Major Grout, was chosen to draft a "Representation of the Broken State of the Inhabitanee of the County of Cumberland and Assign Some Reasons why the County Committee Did not Proceed agreeable To the Resolves of the Convention of the State of New York in respect to their Choosing Governor and Deligates to Send to Convention." The sub-committee's reported draft, which the other committeemen accepted, is so full of the history of the month that we are fortunate in having it preserved among the Pingry Papers.¹

It recites that the committeemen from eight towns assembled on June 4 and, after deliberating on the importance of the New York election and the disordered condition of Cumberland County, adjourned to June 17. On reassembling they found that the sheriff had resigned his commission and refused to act in reference to the elections. Most illuminating of the recitals of the report is that the county committee "being terrified with threats from the people who are Setting up a new State here, they thought it Imprudent to proceed to any Business and adjourned to meet at Brattleborough." County committeemen from six towns having now gathered together in the comparative security of Brattleborough, where also were "a number of men who are appointed by Several towns to make their Disapprobation to the Proceedings of the Late Convention at Windsor publicly Known in some proper manner," the report proceeds to add the committee's own "Disapprobation" of the Windsor Convention.

¹ 1 *Gov. & Coun.*, pp. 365-366.

"The Convention held at Windsor on the fourth day of June," the report says, "have taken into their Possession the Prison of this County" and have forbidden committees to act under the authority of New York; prisoners who might have been liberated under New York's "Resolves" still languish in prison, and the public peace is so much disturbed that the recruiting of soldiers is hindered. The report further asserts the belief that there will be an end to co-operating in the general defence of America unless the spirit of disorder is promptly suppressed, that the fomenters of the New State idea have little property, that they seek their own private advantage instead of "the public weal of America," and that they will not abate their activities without the intervention of the Continental Congress until "obliged so to Do it by the sword."

The County Committee adjourned on June 27 after having given to Colonel Paterson and Major Grout credentials to present the report to the convention or Assembly of New York.

Of Gloucester County we have less information but what we have is definite and decisive. Owing to General Bayley's pre-eminence the situation was far simpler there than in Cumberland. When he gave way the whole of Gloucester was lost to New York. An extract from his letter addressed to the New York Convention under date of June 14, 1777, follows.

"Gentlemen: I acknowledge the receipt of an ordinance from you for the election of governor, lieutenant governor and senators and representatives for the State of New York. . . . The sheriff and committee gave the proper orders, but I am apt to think our people will not choose any members to sit in the state of New York. The people before they saw the constitution, were not willing to trouble themselves about a separation from the state of New York, but now almost to a man they are violent for it." ¹

A letter from Colonel Alexander Webster dated June 21, 1777,² and one from Colonel John Williams dated two days

¹ H. Hall's *Early History of Vermont*, pp. 249-250. Bayley was referring, of course, to New York's Constitution.

² *Journ. N. Y. Prov. Cong.*, vol. II, p. 465.

later¹ indicate that the portion of Charlotte County which lay within the New Hampshire Grants had pretty generally fallen in with the New State movement.

Fortunately, the record of Windsor's town meeting on the day appointed for holding elections of delegates to the Constitutional Convention has been preserved intact. It shows Captain William Dean, the ex-convict, as the leader of the town under the new regime, and Ebenezer Hoisington, the old champion of the New State movement, as still in high favor. The complete minutes of the meeting are given herewith.

"Att a Legal meeting of the freeholders and InHabbitants of the Town of Windsor holden att Said Windsor on the 23 Day of June 1777.

"1^{ly} Voted and Chose Capt. William Dean Moderator.

"2^{ly} Put to Vote wether the Town wold Chuse two Delegates to attend General Convention passed in the Affirmative.

"3^{ly} Put to Vote whether the Town wold Chuse their Delegates by Giving their Names to the Clark. Voted in Affirmative

"4^{ly} Voted and Chose Cap^t William Dean the first Delegate

"5^{ly} Voted and Chose Eben^r Hoisington the Second Delegate to attend the General Convention to meet at the Town house² in Windsor on the Second Day of July next.

"Voted to Dissolve the Meeting."

¹ 4 *Doc. Hist. N. Y.*, p. 567.

² The several towns having been notified by the vote of the June convention to elect delegates to sit in a general convention at the "meeting house" in Windsor, it will be seen that Windsor in speaking of the "town house" as the place of meeting, showed conclusively that the two designations meant one and the same building.

CHAPTER XXXIX

A STATE IS FORMED

OF the Constitutional Convention which assembled at Windsor on July 2, 1777, "for the forming the State of Vermont" ¹ no part of the original minutes or journal remains. Doctor Jonas Fay's record book contains no allusion to it. Writing in 1873 Mr. E. P. Walton says:

"Of this Convention—unsurpassed in importance by any other in the State, in that it established a constitution and frame of government—no official record, and no full and satisfactory unofficial account even, has ever been published." ²

Among the early Vermont historians neither Williams nor Allen nor Graham refers to the minutes of that momentous gathering. William Slade, junior, in editing his valuable volume of *Vermont State Papers* in 1823, remarked with matter-of-fact unconcern that "the journals of the several sittings of the convention are not to be found." ³ Governor Hiland Hall, in his *Early History of Vermont*, published in 1868, goes further: "Neither the journal of the convention nor a list of the members has been preserved." ⁴ How these records came to be lost or destroyed nobody has shown. Doctor Jonas Fay, who acted as secretary of this and earlier conventions and who lived until the year 1818, apparently never revealed the manner or the occasion of the disappearance. Indeed, it is possible that owing to defects in the credentials of some of the delegates or because of small or irregular attendance, no complete minutes were kept. For like reasons it is conceivable that such minutes as were taken down by the clerk were conveniently mislaid or burned. We have, however, the Constitution which that convention established; we have a few let-

¹ *Vt. Hist. Soc. Coll.*, vol. I, p. 69.

² *1 Gov. & Coun.*, p. 62.

³ Slade's *State Papers*, p. 80, note.

⁴ H. Hall's *Early History of Vermont*, p. 254.

ters sent from the convention; we have Ira Allen's brief first-hand account of the session written from memory twenty years after, and we have the speculations of a number of historians as to the identity of the delegates who attended. We have also, from the press of "Judah-Padock & Alden Spooner" at Dresden,¹ a printed copy of a sermon² preached to the delegates by the Reverend Aaron Hutchinson, of Pomfret, on the first day of the session. On the fly-leaf of the pamphlet containing the sermon is a copy of what is with one exception perhaps the only transcript of any part of the official minutes of the convention. This reads as follows:

State of Vermont.

In General Convention, Windsor, 2^d July, 1777.

Resolved,

That Col. Joseph Marsh, Vice President, Mr. John Throop and Capt. Joseph Safford be and are hereby directed to return the Thanks of this House to the Rev. Mr. Aaron Hutchinson for his Sermon delivered this Day at the opening of this Convention, and request a copy thereof for the Press.

Extract from the Minutes.

Jonas Fay, Secr'y.³

There is a good deal of information in that extract. It not only shows, officially, that the convention opened on the appointed day but it discloses the names of four delegates present, including two of the convention's officers, that the convention opened with a sermon and that Aaron Hutchinson preached it. By a letter issued by the convention we know that Joseph Bowker, who had presided at earlier conventions, was the chairman or president.⁴

Before making any further guesses at the names of the delegates at this convention it is well to turn to the text of a letter written by Brigadier-General John Stark under date of August 18, 1777, to the printer of the *Connecticut Courant*. It appeared in the issue of October 7, 1777, and has been reprinted in the first volume of the *Vermont Historical Society's Collec-*

¹ Now Hanover, New Hampshire.

² *Id.*, p. 68.

³ *1 Vt. Hist. Soc. Coll.*, pp. 67-101.

⁴ *1 Gov. & Coun.*, p. 65.

tions at page 228, and in the first volume of *Governor and Council* at page 144. Not that Stark's letter disclosed the names of the delegates: it did not do that. It indicated to historians a rule or limitation in the process of investigation. He was speaking of the "Council of Safety" which the convention elected, and in two places in his letter he gives us to understand that the membership of this council was made up exclusively of men who were delegates at the Windsor Convention of July 2, 1777. Says Stark: "Those Gentlemen [*i. e.*, the Council of Safety] were with others attending a General Convention . . . at Windsor. . . ." Again he says: "The honorable convention, then sitting as aforesaid, appointed twelve *members* as a council . . . who without delay repaired to Manchester. . . ." We italicize the word "members" to bring out clearly Stark's belief that the Council of Safety was composed of convention delegates who were in attendance at Windsor and who proceeded from Windsor to Manchester.

One other writing tends to corroborate General Stark on this point. The Reverend Aaron Hutchinson, in drafting for the Council of Safety a letter introductory to the printed version of his convention sermon, wrote under date of September 6, 1777: "You may remember with what reluctance I yielded . . . to the motion of our late Convention, *whereof you were a part*, for giving a copy of my sermon for the press." Here we use italics to emphasize Hutchinson's belief that all the members of the Council of Safety had been convention delegates.

Of course, Stark and Hutchinson may have been mistaken, but without contemporary evidence to the contrary we may assume that they were right and that Ira Allen, who wrote from memory twenty years later, was in full concurrence with their views when he related that "the Convention then appointed a Council of Safety to act during the recess, and the Convention adjourned. The Council of Safety proceeded to Manchester. . . ." ¹ He does not say they "convened" at Manchester. Already, if we are correct in our belief, the Council had "convened" at Windsor. They merely "proceeded" from Windsor to Manchester.

¹ Allen's *History of Vermont*, p. 93.

A field of investigation that Vermont historians seem hardly to have ploughed in their search for the names of the delegates to the Constitutional Convention is the records of the several towns. Those records, where they have been preserved, show who were elected on June 23 to go to Windsor on July 2. Proof of election is not proof of actual attendance at Windsor, but it is fairly persuasive; and the proof that A had been elected as the delegate from Woodstock would be pretty conclusive evidence that B was not Woodstock's delegate at the Convention.

We say that this latter line of research has not been pursued with diligence because nobody except the writer has published the fact that Captain William Dean and Ebenezer Hoisington appear by Windsor's town records as elected delegates to the Constitutional Convention, and because Captain Dean's once well-known if not notorious name has never been mentioned by Vermont historians in connection with that great meeting. Nor does one find in the so-called list of "probable" convention delegates the names of John Barrett and William Lockwood, whom the town of Springfield records as its elected representatives on that occasion.

We have digressed to this extent because Vermont historians have given too little weight to the foregoing documentary evidence or sources of information in trying to solve the two fascinating puzzles of discovering the names of the convention delegates and the names of the twelve original members of the Council of Safety.

Before we digressed at all we had accepted as convention delegates Joseph Bowker, president; Joseph Marsh, vice-president; Jonas Fay, secretary; John Throop, of Pomfret, and Joseph Safford, of Bennington. For those five men we have contemporaneous documentary proof of their being members. We could include as members of the convention the names of the twelve men who constituted the Council of Safety, but here again we are met with uncertainty. Mr. E. P. Walton's surmises in this regard, set forth at length in the first volume of *Governor and Council* at pages 67 and 74 and at page 109, were not wholly satisfactory to himself and are quite unsatisfactory to any discriminating reader. Nor does Mr. Walton's

final finding in the eighth volume at page 453 carry the conviction that he has discovered the names of the twelve men originally constituting the Council of Safety. We know, however, from its records that Thomas Chittenden was its president, that Jonas Fay was its vice-president, that Ira Allen was its first secretary, and that Doctor Paul Spooner was its deputy secretary. From an official letter¹ written by the last under date of August 11, 1777, and in which he referred to the council by the pronoun "us," we learn that Benjamin Spencer and General Jacob Bayley were original members. Ira Allen's *History* sets forth circumstances which leave little doubt that both he and Nathan Clark were members also.² We are therefore moderately safe in adding to the five record members of the convention the names of Thomas Chittenden, Ira Allen, Paul Spooner, Benjamin Spencer, Jacob Bayley, and Nathan Clark.

The town of Newbury has records showing that both General Bayley and Reuben Foster were elected delegates to the Constitutional Convention, and we have already mentioned the election of delegates in Windsor and Springfield. Since the last-named town was still represented in the Cumberland County Committee, and to that extent still showed its fidelity to New York, we cannot feel sure that Springfield's elected delegates actually went to Windsor. Nor are we inclined to place implicit confidence in Ira Allen's memory or accuracy of statement when he describes Heman Allen as a member of the Council of Safety,³ although it must be admitted that Heman Allen would have been expected as a convention delegate and a natural selection for the Council. There seems no reason to doubt that Captain William Dean and Ebenezer Hoisington served as Windsor's delegates. Colonel William Williams, of Wilmington, is reported to have been in Windsor during the last days of the convention.⁴ Warner reports him as at Hubbardton on July 1,⁵ but General St. Clair lists Williams's regiment as under the command of Colonel Benjamin

¹ 1 *Gov. & Coun.*, pp. 137-138.

² Allen's *History of Vermont*, p. 96.

³ *Id.*, p. 101.

⁴ B. H. Hall's *History of Eastern Vermont*, pp. 297-298 and note.

⁵ 1 *Vt. Hist. Soc. Coll.* 61.

Bellows four days later,¹ indicating that Colonel Williams was then absent. The record on the gravestone of Colonel Benjamin Carpenter, of Guilford, would imply that he also was a delegate.² For conjectural work by others in the pleasant pastime of making up the convention's membership, see the first volume of *Governor and Council*, at pages 63 and 527, and J. M. Comstock's *Principal Officers of Vermont*, page 274.

The approach of General Burgoyne's fine army of nearly eight thousand troops, which had begun its southward movement in the Champlain Valley, spread fear over the New Hampshire Grants. By June 29, 1777, he had reached Putnam's Creek, north of Ticonderoga, and from his camp issued a proclamation of warning to the countryside. From that date evidence of panic among the settlers was discernible. They began fleeing to him for protection and professing their loyalty to the Crown. It was an inopportune and awkward time for mustering a convention at Windsor or anywhere else on the Grants—especially a convention which contemplated the erection of a government rebellious against and independent of Great Britain. Under such conditions one could not reasonably expect at Windsor a full representation from the exposed towns on the west side of the Green Mountains, or an aggregate attendance anywhere near equal to the seventy-odd composing the June convention. Aaron Hutchinson no doubt reflected a common view of the situation when, sixty days later, he wrote: "I had expected the Convention would not sit at that time, by reason of the dark cloud then coming over us, and which overwhelmed us the week after."³ Had it been known that the Continental Congress had finally and rather contemptuously rejected on June 30 the petition filed in April by the representatives of the New Hampshire Grants, the famous convention of July 2 would hardly have taken place.

The convention assembled, however, and on the appointed day. From the Reverend Aaron Hutchinson's note of introduction to his sermon preached on that occasion to the delegates "at the opening" of the convention, we gather that the proceedings began in the afternoon. He recites that his dis-

¹ *N. Y. Hist. Soc. Coll.* for 1880, pp. 80, 113, and 118.

² *1 Gov. & Coun.*, pp. 117-118.

³ *1 Vt. Hist. Soc. Coll.*, p. 72.

course was "delivered extempore after my riding in the heat of that day,"¹ and the Reverend Pliny White asserts that "before proceeding to business the convention listened to a sermon by Reverend Aaron Hutchinson."² Granting that the convention met at Windsor's meeting house or town house, according to plan, the quality of this sermon delivered on the afternoon of a day remembered by the preacher for its "heat" may well support Windsor's tradition that the delegates at the earliest opportunity repaired to the near-by tavern and remained there for their subsequent sessions. One who has the patience to read Mr. Hutchinson's sermon through will be convinced that it could but have had a dipsetic or siccific effect on his hearers. The subject, "A well tempered Self-Love a Rule of Conduct towards others," the preacher frequently lost sight of. The text, which was the familiar twelfth verse of the seventh chapter of the Gospel according to St. Matthew, is very far from justifying the vindictive tone which pervaded much of Mr. Hutchinson's address: "Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets." The Golden Rule as taught by Jesus became under Aaron Hutchinson a text for resentment and self-defence in a sermon that, according to the Reverend Pliny White, "exhibits a logical unity and coherence and a frequency of classical and historical allusions which testify to the highly disciplined and well-furnished mind of its author."

The "allusions" least uninteresting to the convention delegates and to us are those which touched the conduct of Great Britain and the conduct of the Province of New York. The expense of maintaining a court-house, a jail, and "four county courts in a year," the compulsory attendance on the courts by the jurymen, the exaction of patent fees and higher quit-rents, were some of the items in the Reverend Mr. Hutchinson's bill of particulars against New York. "We are chiefly from New England," argued he, and "our genius and temper, and the laws we have been accustomed to, are very different from those of New-York." The only favor traceable to New York, according to Mr. Hutchinson, he set up as a man of

¹ *Vt. Hist. Soc. Coll.*, vol. 1, p. 70.

² *1 Gov. & Coun.*, 64.



THE OLD CONSTITUTION HOUSE AT WINDSOR

straw to be knocked down. This was the grant of money to support Hoisington's Rangers. "Those rangers," said he, who "were granted without the knowledge of the people" on the Grants "at the motion of one single man who attained the chief command," were deemed "rather a nuisance than a defence and innocently the wasters of the public money." If poor Joab Hoisington, who was lying in an unmarked grave on the Ox Bow at Newbury, had had a friend in the convention, this slur upon a patriot's memory should have called forth a challenge.

It is worth noting that it was not Mr. Hutchinson's idea that the New State should be a pure democracy. "Democracy . . . is found by the experience of all ages . . . soon to lose its dignity . . . and has often degenerated into the most bare-faced, intolerable tyranny." Although "monarchy and oligarchy carry dignity," they also "may easily degenerate into oppression and tyranny." Therefore he recommended to the delegates "an happy union of the three."

So he forged on to the end of his sermon, which may be found in full in the first volume of the *Vermont Historical Society's Collections*, at pages 67 to 100. It was apparently followed by a prayer¹ and Doctor Watts's hymn, "Blessed Redeemer, how divine," concluding with a doxology sung, standing, by "the whole assembly."² If, after passing the resolution to ask of Mr. Hutchinson a copy of his sermon for printing, the sweaty and thirsty delegates then sought the tavern of Eljah West,³ they were actuated by motives entirely natural and normal.

Some time on that day came to the convention a messenger with a disquieting letter written by Colonel Seth Warner while on his way from Hubbardton to Ticonderoga. Dated July 1, it told of the approach of the British and the imminence of the attack upon the fortress. It was addressed "To the Hon. the Convention now sitting at Windsor in the State of Vermont," beseeching prompt exertion to call out the militia on "the east side of the mountain." That Warner's prayer was promptly heeded by the convention is indicated

¹ 1 *Vt. Hist. Soc. Coll.*, p. 100.

² *Id.*, pp. 100, 101.

³ Or the tavern of Jacob Hastings, if he was its landlord.

by President Bowker's letter of July 3, transmitting a copy of Warner's dispatch to the Board of War or Assembly of New Hampshire. Said Bowker: "The Militia from this State are principally with the officer Commanding the Continental Army at Ticonderoga, the remainder on their march for the relief of that distressed Post."¹ Other items of business transacted by the convention, in addition to adopting a constitution, were measures for safeguarding the Westminster jail,² the establishment of a loan office,³ the authorization of Colonel Joseph Marsh, Colonel William Williams, and Colonel Timothy Brownson as contractors for arms for the use of the State,⁴ and the appointment of a Council of Safety to manage the affairs of government until the election of a legislature and executive officers pursuant to the terms of the constitution. The news that Ticonderoga had been evacuated on July 6 reached the convention on July 8. The story of the proceedings of the convention, as related by Ira Allen and many times quoted, is as follows:

"A draft of a constitution was laid before the Convention, and read. The business being new, and of great consequence, required serious deliberation. The Convention had it under consideration when the news of the evacuation of Ticonderoga arrived, which alarmed them very much, as thereby the frontiers of the State were exposed to the inroads of an enemy. The family of the President of the Convention, as well as those of many other members, were exposed to the foe. In this awful crisis the Convention was for leaving Windsor, but a severe thunder-storm came on, and gave them time to reflect, while other members, less alarmed at the news, called the attention of the whole to finish the Constitution, which was then reading paragraph by paragraph for the last time. This was done, and the Convention then appointed a Council of Safety to act during the recess, and the Convention adjourned."⁵

¹ 1 *Gov. & Coun.*, p. 65.

² B. H. Hall's *History of Eastern Vermont*, p. 298.

³ 1 *Gov. & Coun.*, p. 75.

⁵ Allen's *History of Vermont*, pp. 92-93.

⁴ *Id.*, p. 67.

To Allen's report we may add Thomas Chittenden's assertion that the representatives at the Convention "did . . . agree *Unanimously* on a Constitution. . . ." ¹ And we also venture the suggestion that this important step was taken by delegates who had had before them not a single copy of the great code they ratified other than Thomas Young's draft.

According to accepted beliefs, while the thunderstorm was raging without, the members of the convention who had been prevailed upon to stay to the end concluded their labors in the tavern—now called the Old Constitution House—adopted the Constitution, appointed a Council of Safety, and adjourned. This was on Tuesday, July 8, 1777. Had it not been for that storm the delegates would have scattered in consternation without finishing their work of forming a State. Thus two fortuitous circumstances—first, the delay in getting news that the Continental Congress had disapproved Vermont's aspirations, and, second, the great thunderstorm occurring at the nick of time—permitted the birth of the New State.

¹ 1 *Gov. & Coun.*, 215.

CHAPTER XL

THE CONSTITUTION

ONE day, towards the end of his term as British Ambassador to the United States, James Bryce, author of *Bryce's American Commonwealth*, stood on Windsor Rock, that point on the crest of Mount Ascutney, from which one obtains the view of the beautiful Connecticut Valley, with the village of Windsor lying at one's feet. "Has Windsor anything notable in its history?" asked he. On being told that Windsor was the place in which a convention of delegates from the towns on the New Hampshire Grants framed and adopted the Constitution of Vermont, and that this Constitution was the first to prohibit slavery, he said with emphasis: "That is notable indeed. Windsor should be proud of such a heritage."

The item of history which Bryce seized upon as something of exceptional value is, of course, the feature of Vermont's first Constitution. Whence came this provision, who was mainly responsible for its insertion in the Constitution, what amount of Vermont sentiment there may have been behind it, no historian seems to have discovered. It does not appear in the Pennsylvania constitution, from which Thomas Young prepared his draft for the use of the settlers on the New Hampshire Grants. There is nothing of that nature in the constitution of any of the thirteen original States, nor did it become a part of the Constitution of the United States, as originally formed ten years later. Samuel Williams, who published the first edition of his *History of Vermont* in 1794, did not mention the constitutional prohibition of slavery, although he did discuss Vermont's Constitution, which, curiously enough, he asserts was formed in 1778.¹ Graham in 1797 made the same error² as to the year in which the Constitution was established, and neither he nor Ira Allen mentions the subject of slavery.

There had been organized in Philadelphia in 1775 an anti-

¹ Williams, *History of Vermont* (1st ed.), p. 347; *Id.* (2d ed.), vol. 2, pp. 387, 397.

² *A Descriptive Sketch of the Present State of Vermont*, p. 18.

slavery society, so that Thomas Young had at hand in his home town a source from which he might have gained the idea if it was he who was responsible for its introduction into Vermont's Constitution. The circumstances of the inhabitants of the New Hampshire Grants could not have been such as to make the ownership of slaves at all common among them or give rise to a lively local issue, based on local instances. On the other hand, if somebody had pointed out to the delegates that the well-to-do citizens of the Province of New York quite commonly held slaves and were not prohibited from so doing by New York's new constitution, there might at once have occurred to the convention at Windsor a very natural reason for marking the Vermont Constitution with this distinguished and distinguishing provision. Whatever its origin, there it is; and to Vermont and to Windsor and to the group of men who stuck together in the Old Constitution House during the thunderstorm of July 8, 1777, belongs the credit of establishing as a basic State law what afterwards became the law of the entire Union. Looking at the history of the United States from to-day's perspective, and realizing the part which slavery played in shaping the destiny of America, we can well appreciate the importance of pointing to Windsor as the place where slavery first was outlawed.

The original Vermont Constitution, as established in Windsor on July 8, 1777, may be found in Slade's *Vermont State Papers*, at pages 244 to 255, and in the first volume of *Governor and Council*, at pages 92 to 103, except that both these texts prescribe the date of the first election and the date of the meeting of the first legislature as in the following March, and fix the place of the legislative session as at Windsor. According to the Constitution as settled upon on July 8, the first election was to take place in December, and the first meeting of the legislature was to be held in January¹ at Bennington.² The changes were made by the convention delegates themselves at a subsequent session held in Windsor on December 24, 1777, at which time the convention also accepted certain home-made interpolations in the Pennsylvania form of the "Preamble," which remained a part of the Constitution until

¹ 1 *Gov. & Coun.*, p. 96, note.

² *Id.*, p. 215.

1793. Of the two texts above mentioned the one in *Governor and Council* is especially valuable in that it prints in italics most of those provisions which differ from the Constitution of Pennsylvania.

Governor Hiland Hall, in his *Early History of Vermont*, at pages 268 to 270, gives a concise and satisfactory review of some of the more striking features of Vermont's first Constitution, although in mentioning the grant of suffrage to all men over twenty-one he omits to state that this was peculiar to Vermont. He dwells, rightly, on the anti-slavery clause and on the somewhat singular precautionary measures taken to avoid precipitancy in legislation. The frame of government contemplated but a single legislative body, composed of town representatives. In the absence of any senate or similar house, the Constitution of 1777 directed that all bills that were proposed should be printed for the information of the people, should be laid before the governor and his council for amendment and should not be finally debated by the legislature nor enacted into law until a subsequent session. An exception was made in favor of "temporary acts" introduced "in case of sudden necessity"; but even in such an emergency each measure had to be submitted to the governor and council before passage. The result of this inconvenient arrangement was that most of the early acts were declared to be "temporary," and under that designation secured passage at the legislative session at which they had been originally offered.

An interesting and not unwise provision was that by which delegates to represent Vermont in the Congress should be chosen by the legislature instead of by the people. To those who now look back with pride on the very long and useful careers of some of Vermont's United States senators it seems strange that Vermont's first Constitution should have prohibited any man sitting longer than two years successively in Congress, prohibited his re-election until three years had intervened, and disqualified him forever from representing the State if he accepted any office within the gift of Congress. Even during the two years for which a delegate might be elected, the legislature could recall him at any time by electing another in his stead.

Governor Hall makes no point of the constitutional guaranty of religious liberty—and with good reason, since, after granting to each man the right to worship Almighty God as his conscience might dictate, the Constitution declared “nor can any man who professes *the protestant religion* be justly deprived or abridged of any civil right as a citizen,” etc. The delegates who met in Windsor in July, 1777, evidently had much of the spirit shown by their townsmen, Joab Hoisington and Benjamin Wait, in 1775, when those two patriots classed “Roman Catholicks” with the common enemy. A further exhibition of the “religious liberty” under Vermont’s Constitution of 1777 is found in the declaration prescribed for each member of the legislature: “I do acknowledge the scriptures of the old and new testament to be given by divine inspiration, and own and profess the protestant religion.” Jews as well as members of the Church of Rome were required to take notice. It seems singular that members of the Church of England should have escaped constitutional proscription at the hands of Vermont’s stalwart Congregationalists at such a time. These peculiar instances of religious discrimination, which were mainly Vermont additions to the Pennsylvania Constitution, were softened in 1786 and still further subdued in 1793.

Other cases of departure from the Pennsylvania model and which are perhaps the result of fear of New York, are the article giving to “the people of this State the sole, exclusive and inherent right of governing and regulating the internal police of the same”; the article prohibiting warrants or writs of attachment against Vermont freeholders in the absence of an oath that a creditor was likely to lose his debt; and the article forbidding the transportation of any person out of the State for trial for an offence committed within the State.

As under our present system, the assembly was an unrepresentative body—each town, irrespective of population, having a single representative, except that for the first seven years any town with eighty or more taxable inhabitants might have two representatives. A fairer and more rational arrangement had been put in the Pennsylvania constitution whereby numbers determined the representation; but Vermont’s anomalous system has prevailed to this day.

Although Vermont borrowed almost all of her first Constitution from Pennsylvania through the agency of Thomas Young, and thus may claim the approval of Benjamin Franklin, who had presided in Pennsylvania's constitutional convention, one should not overlook the fact that Pennsylvania's State constitution was really built on the ancient foundation of William Penn's "Frame of Government." This "Frame of Government" and the "laws agreed upon in England" were "the final products of all Penn's best thinking and conferences, and were brought with him to the Colony in 1682. Though changed in form many times, they shaped all future constitutions of Pennsylvania, of other States and of the Federal Union."¹ No wonder such a model appealed to Vermont, for Pennsylvania had become the most consistently free and prosperous colony of the thirteen and had so contented a population that the inhabitants had hesitated to take up the Revolutionary cause in 1775.² The studious reader will find it worth while to examine Mr. E. P. Walton's excellent note on the origin of Vermont's Constitution, at pages 86 to 89 of the first volume of *Governor and Council*; and not the least interesting item in that connection is the fact that Penn's "Frame of Government" was granted him as a royal charter by King Charles the Second, who, as the reader of this volume will recall, has been held responsible for the creation of the State of Vermont. Thus, to King Charles the Second, Vermont traces not only the prime cause of her independent statehood, but to his authority the basis of her Constitution. Through double lines he is the father of Vermont.

How generally the inhabitants of Vermont knew that they had formed a State and had established a Constitution is a question. It is doubtful if generally they understood what a constitution was. This is not mere surmise: legislature after legislature in Vermont, beginning with the year 1779, solemnly by statute enacted that the Constitution of Vermont should be a part of the law of Vermont! Of course, if the Constitution was anything, it was the very foundation of the structure of State government. Without it there could be no basis for Vermont's statute law or civil and military officers.

¹ Sharpless, *A Quaker Experiment in Government*, p. 62.

² *Id.*, p. 55.

Such men as Ira Allen and Colonel Joseph Marsh knew this well enough, but among the rank and file the conception of a constitution must have been hazy indeed when on no less than four occasions the legislature passed statutes to "establish" it.¹

William Slade, in a note to his invaluable *Vermont State Papers*, at page 288, contributes the suggestion that since the Vermont Constitution of 1777 was never submitted to the people for ratification it was "considered a mere nullity by the statesmen of that period." Such a theory, however, gets us nowhere because the Constitution was accepted by those same "statesmen" as supplying their authority to pass statutes, and because they did not trouble themselves to obtain a referendum vote by the people in ratification of any of the several acts to "establish" the Constitution.

Governor Hiland Hall, in one of his editorial notes in the second volume of the *Vermont Historical Society's Collections*, at page 279, offers in explanation of the Acts of 1779 and 1782 "establishing" the Constitution, that since several towns other than those participating in the constitutional convention of 1777 had been organized and were represented in the legislature, it was deemed advisable by formal legislative action to bring such new towns under the sway of the Constitution. To such a suggestion one might justly reply, first, that the Constitution by its original terms applied to all the territory now included within the State of Vermont, and, second, that the "new" towns, by electing and sending to Vermont's Assembly their representatives, had already proved assent to the Constitution and willingness to be governed by it.

Daniel Chipman, in his *Memoir of Thomas Chittenden*, advances another explanation of these singular statutes. It was Mr. Chipman's theory that, according to the popular belief in those times, a legislature rather than a constitution, was supreme. "No idea was entertained," says he, "that an act of the legislature, however repugnant to the constitution, could be adjudged void or set aside by the judiciary."² Mr.

¹ Slade's *Vt. State Papers*, 287, 288 and note; *Gov. & Coun.*, vol. 2, p. 160 and note; *Id.*, vol. 3, p. 133 and note; *Id.*, vol. 4, p. 118 and note.

² Chipman's *Memoir of Chittenden*, pp. 100-113.

E. P. Walton accepted Mr. Chipman's view¹ and so, apparently, did the Reverend Pliny White,² although it is not clear that Mr. White quite understood it. As a matter of fact, Mr. Chipman's premises are not free from doubt. Says Judge Baldwin in *The American Judiciary*: "The idea of a supreme authority exercising the function of setting aside acts of legislative bodies which it deemed inconsistent with a higher law was familiar to Americans from an early period of our colonial history."³ Years before the establishment of Vermont's Constitution, lawyers in an American case that attracted widespread attention had argued that there was the right and power on the part of the judiciary to declare a law void because it violated a constitution.⁴ Jeremiah Mason, in cases before justices and Common Pleas judges in Cheshire County, New Hampshire, just across the Connecticut River, asserts that between 1791 and 1794 he successfully attacked the constitutionality of certain legislative enactments and had them declared void. The doctrine was therefore known in New England at an early date. But wholly aside from that specific point the supremacy of constitutions was realized and understood, as we shall presently demonstrate, by some of the very men who participated in the Windsor Convention of July, 1777, and formed the Constitution.

Under date of October 30, 1777, Ira Allen published a second pamphlet of *Miscellaneous Remarks*,⁵ in which, among other things, he discussed the effect of that provision of New York's constitution whereby Crown grants made within the Province of New York prior to October 14, 1775, were ratified and confirmed. This provision, of course, embraced within its scope grants made by Governor Tryon and his predecessors in the territory now called Vermont. Ira Allen clearly perceived the resultant danger. "Those grants that are thus established *in and by the constitution*," he wrote, "are established in earnest, as they are forever out of all dispute; for no law can make decision of, or try the title of land that was

¹ *Gov. & Coun.*, vol. 3, p. 133.

² *1 Vt. Hist. Soc. Coll.*, pp. 64-65.

³ S. E. Baldwin's *The American Judiciary* (1920 ed.), p. 98.

⁴ Quincy's *Massachusetts Reports*, p. 474.

⁵ *Vt. Hist. Soc. Coll.*, vol. I, pp. 133-144.

established in *the constitution on which that law was founded*; for allowing it could, the law would condemn the *constitution, from which it received existence*; which would be as contrary to ~~law~~ and nature as for a creature to condemn his creator.”¹

Similarly, though with less force, Colonel Joseph Marsh, on behalf of himself and other members of the Vermont legislature, on October 23, 1778, protesting that a measure adopted by that body was in violation of Vermont's Constitution, put the case in this language:

“Thus, Gentlemen, you see that in less than a year after the establishment of the Constitution of this State, *on which all our political rights and liberties depend*, flagrant and open attempts are made to violate and destroy it. . . .”²

Nor did Colonel Marsh fail to quote the words by which Vermont's Constitution had limited the legislature's power: “But they shall have no power to add to, alter, abolish, or infringe any part of this Constitution,”³ as set forth in the eighth section of Chapter II.⁴

Moreover, all men who had read Vermont's Constitution knew the language of the last section, which provided for and defined the powers of the Council of Censors. The Constitution expressly placed upon the Council of Censors the duty of enquiring “whether the legislative and executive branches of government have . . . assumed to themselves or exercised other or greater powers than they are entitled to by the Constitution.” The same section empowered the Council of Censors to recommend to the legislature the repeal of laws which appeared to the Censors “to have been enacted contrary to the principles of the Constitution.” The “supremacy” of the Constitution was thus recognized in the text of the Constitution itself.

¹ *Id.*, p. 141.

² *Gov. & Coun.*, vol. I, p. 425.

³ *Id.*

⁴ See, also, in connection with this discussion the record of the debates on the severance of the union with some of the New Hampshire towns in the autumn of 1778. (Slade's *Vt. State Papers*, 89-103.) The arguments indicate that many understood the nature of a constitution and yet were willing to violate their constitution under stress of circumstances. In fact, the thought of having violated it may have prompted a desire to re-establish it in a spirit of contrition.

On such a record it is impossible to agree with Mr. Chipman, Mr. Walton, and the Reverend Mr. White that men like Ira Allen and Colonel Marsh failed to understand the supremacy of the Constitution over the acts of the Assembly. Allen and Marsh may not have realized the duty resting upon the judiciary to declare an unconstitutional act to be void; but they fully understood the nature of a constitution, and that the Constitution should prevail. The fact probably is that men like Ira Allen and Colonel Marsh, although comprehending perfectly the nature of a constitution, were in a pitifully small minority, lacked the time and patience to instruct and convince an unlettered majority of their colleagues, and hence, for the sake of peace and to allay the doubts and secure allegiance to the Constitution on the part of less-informed contemporaries, endured the grotesque practice of passing laws to "establish" the Constitution. If this be the true explanation of these anomalous acts, then Mr. Slade was pretty nearly right in saying that the Constitution was viewed as "a nullity," although we cannot follow him in his belief that "statesmen" so viewed it or that the want of ratification by popular vote was the cause of its disrepute. Want of ratification was mentioned by Ira Allen in his *History of Vermont*,¹ and the town of Bennington, as he says, tried to make a point of it²; but there is no real ground for assigning this as the reason that in the early days the great majority of the people failed to appreciate that the Constitution was the Constitution.

The reader who has been interested and patient enough to follow these passages should not overlook the events that preceded each of the several legislative votes to "establish" the Constitution. The first of such votes, so far as is known (February 15, 1779), followed the dissolution of the union of Vermont with certain towns of western New Hampshire. Lieutenant-Governor Marsh and others had made the point-blank charge that such dissolution not only had violated but "destroys" the Constitution.³ The second act to "establish" the Constitution was in accordance with precedent, since it came on the heels of the dissolution of Vermont's union of 1781

¹ Allen's *History of Vermont*, pp. 108-109.

² *Id.*, p. 110.

³ 1 *Gov. & Coun.*, pp. 422, 423.

with parts of New Hampshire and New York. The third and fourth of such enactments followed the constitutional conventions of 1786 and 1793, respectively, which had amended the Constitution. Furthermore, the Council of Censors of 1786, in reporting its recommendations of amendment, pointed out specific instances of infraction of the Constitution during the first seven years of statehood. These circumstances indicate that the several legislatures, in their votes to "establish" the Constitution, were acting upon the belief that the foundation of their government had been broken or impaired or altered, and were desirous, so far as legislative action could serve the purposes, to make good the damage or ratify legitimate improvement.

It would be improper to conclude this phase of the Constitution's history without respectful reference to Governor Highland Hall's note at pages 277 to 279 of the second volume of the *Vermont Historical Society's Collections*, or to Mr. E. P. Walton's note at page 160 of the second volume of *Governor and Council*. Both of these learned commentators have treated with derision suggestions such as are set forth by the writer of this volume. With all deference, however, we are willing to let our conclusions stand and to permit the reader who may be interested in the study to judge if they be sound. "Whatever the true explanation may be, nothing more need be said to convince a reasonable mind that, as affecting the Constitution, such enactments [*i. e.*, the statutes "establishing" the Constitution] were mere nullities."¹

¹ Chief Justice Watson's Address in *Proceedings of Vt. Hist. Soc.*, 1919-1920, p. 242.

CHAPTER XLI

THE FIRST DAYS OF STATEHOOD

THE reign of terror to which we have alluded in an earlier chapter made itself felt in Windsor directly after the June Convention. Among those classed by the New Staters as "enemical" persons was Andrew Norton, who seems to have been one of Windsor's substantial farmers and eventually a Loyalist. The details of the charge against him, although now unknown, were deemed sufficient by the supporters of the New State movement to justify his incarceration in the Westminster jail. He is probably one of the prisoners to whom the members of Cumberland County Committee referred in their memorial, dated at Brattleborough on June 26, and addressed to the New York Convention, wherein the committeemen asserted "that several prisoners now in prison in the County, who might have been set at Liberty agreeable to the Resolves of the Convention of the State of New York, are still Kept in prison in the most Pitifull Circumstances, and are so Like to Continue."¹ At all events, Colonel Eleazar Pater-son, of Hinsdale (Vernon), who bore the Cumberland County Committee's memorial, brought with it to the New York Council of Safety sundry papers reporting the condition of affairs on the New Hampshire Grants and the recent Windsor Convention of June 4, and including a certain "petition of Andrew Naughton, confined in the jail of the said county by the authority of the said convention."²

Unfortunately, the petition of Norton—or Naughton, as he preferred to write his name—was not copied in the journal of the New York Committee of Safety, and was probably lost in the fire which in 1911 destroyed so many priceless records in the New York State Capitol. Its text, if obtainable, might throw a flood of light on the initial steps taken by the New Staters on the east side of the Green Mountains to force their will upon the dissenters. The fact that Naughton thought it proper to address his petition to the authorities of New York

¹ 1 *Gov. & Coun.*, 366.

² 1 *Jour. N. Y. Prov. Cong.*, 995.

rather than to the Green Mountain insurrectionists may of itself suggest a reason for his being put under restraint, although his joining the British after his release from jail would indicate that he was "enemical" to the Revolutionary cause from the beginning. It must be confessed, however, that within the next few months among those arrested as "enemical" persons were Americans whose only offence, as they stoutly asserted, was their adherence to the State of New York and their unwillingness to announce their allegiance to the new State of Vermont.¹

A Windsor citizen who held a lieutenant's commission under New York played in far better luck and with greater tact than Andrew Naughton. Lieutenant Elisha Hawley, of Hoisington's Rangers, recognizing that the time for deciding between New York and Vermont had arrived, concluded that the safe course was to resign his commission. In the following delightfully worded letter he laid the matter before the New York Convention:

To the Honorable Convention
of the State of New York,
Gent.—

July 16, 1777.

I, the undernamed subscriber, was appointed by your said Honorable Convention, lieutenant in the corps of rangers now under the command of Captain Benjamin Wait, and have served in said corps since first raised; but by the death of my wife, who has left behind a small and numerous family of helpless children, together with divers other disappointments, renders me incapable of further service in my present situation; therefore make this my voluntary resignation.

Given under my hand this 16th day of July, 1777.

Elisha Hawley, Lieut.²

The action of the New York Convention on the receipt of Lieutenant Hawley's communication is not recorded. Such an Irishism as the "small and numerous family" ought to have found favor for him, to say nothing of his lament that his de-

¹ 3 *Clinton Papers*, 552.

² 2 *Jour. N. Y. Prov. Cong.*, 509.

ceased wife had left behind her not only a family of helpless children but "other disappointments." From other sources we discover that Lieutenant Hawley was willing to do his part to better his situation by taking as a new wife Hannah, widow of Duty Sayles, twelve days after the date of the above letter. This we find by examining the Cornish Church records kept by our old friend, Parson James Wellman.¹ Only an ungenerous reader will infer that Lieutenant Hawley in tendering his resignation was actuated by motives other than those he put in writing, even though it must be admitted that a honeymoon with Hannah was less likely to be interrupted if the groom could first free himself from military duty and settle down once more as a civilian at his Windsor grist mill.

A sidelight on Lieutenant Hawley's decision is thrown by the following letter written by his superior officer, Captain Benjamin Wait, of Windsor, to the New York Convention, on receipt of orders to march the Rangers to Kingston in Ulster County:

Gentlemen:

Kingston, July 26, 1777.

Agreeable to my orders received from the Honorable Council of Safety, dated June 27th, I proceeded to New-Borough² in the County of Gloucester, and when I arrived there found my officers and men marched to Ticonderoga on account of the alarm there, and as soon as they returned I called them together and ordered them on the 14th inst. to prepare for marching down immediately, which they refused, giving for their reason that, at the time of their engaging, they did not expect to be removed from the three counties of Cumberland, Charlotte and Gloucester, and that now the enemy being in possession of Ticonderoga, leaves the frontier open to them, and that they could not think of leaving their wives and children in so dangerous and helpless a situation. This, gentlemen, being the case, I would beg leave to lay the same before you for your consideration.

Your most obedient and very humble servt.

Benj. Wait, Capt.³

¹*N. E. Hist. & Gen. Reg.*, vol. 72, p. 283.

³*Jour. N. Y. Prov. Cong.*, vol. II, p. 502.

² Newbury.

The members of New York's Council of Safety accepted the above letter as a satisfactory explanation of Captain Wait's failure¹; and well they might, since they had before them ample corroboration in the shape of a report from a committee which had been sent into Gloucester and Cumberland Counties for the purpose of ascertaining if elections were being held pursuant to New York's constitution. Under date of June 23, Colonel John Williams and Ebenezer Clark had related that "the committee sent to Cumberland and Gloucester Counties in order to be informed how they meant to proceed with respect to the Senators, received for answer that the New Hampshire Grants had declared themselves independent and would not let the county committees sit, nor anything be transacted under the jurisdiction of New York."²

So much for the difficulties in which Andrew Naughton, Elisha Hawley, and Benjamin Wait found themselves. We shall take up later the cases of other Windsor citizens, but at present we must revert to the untoward outcome of the petition for independent statehood which Jonas Fay, Heman Allen, Thomas Chittenden, and Reuben Jones had presented to the Continental Congress, and which had been awaiting action by that body since April.

It was only after insistent demand by the State of New York that the Continental Congress actually passed upon the petition of the New Hampshire Grants to be recognized as a separate district or State. Obviously, the question was as delicate as it was important. Harrassed by the perplexities of the war, which was not going on too well, fortified by no strong Federal government such as the American Union subsequently became, the delegates to the Congress of the United Colonies would gladly have avoided decision on this grave internal matter. As it was, the petition had been pigeon-holed so long that New York had become not only impatient but indignant, while the inhabitants of the Grants, as we have seen, had proceeded with their processes of state-forming as if sure of ultimate recognition by the Congress.

On June 30, 1777, the Continental Congress acted. It voted

¹ B. H. Hall's *History of Eastern Vermont*, p. 300.

² *Jour. N. Y. Prov. Cong.*, vol. I, p. 977.

to dismiss the petition on the ground that the Congress was composed of delegates from the thirteen original colonies and from those only, that its business was to defend those colonies against Great Britain, and that it could not countenance any proceeding which tended to injure any of the thirteen constituents. The Continental Congress further resolved that its action in commissioning Colonel Seth Warner to raise a regiment was not intended to encourage the New Hampshire Grants to independent statehood, and that nothing of that nature was to be inferred from the Declaration of Independence of July 4, 1776. As to Thomas Young's papers, and in particular his reference to the resolution of May 15, 1776, the Continental Congress declared his arguments "derogatory to the honour of Congress and a gross misrepresentation of the resolution of Congress therein referred to, and tend to deceive and mislead the people so addressed."¹

Dilatory as the Continental Congress had been in giving judgment, there was still further delay in the transmission of copies of the decision to New York. It was not until July 17 that New York's Committee of Safety, sitting at Kingston, ordered copies of these resolutions to be supplied to James Clay and others for distribution in "the Eastern District of this State."² Clay endeavored to the best of his ability to disseminate the copies through the towns of Cumberland County³ on or before the 28th day of July, and his efficiency in this regard caused his arrest and imprisonment on a warrant issued at the order of Vermont's Council of Safety on August 10.⁴

That the resolutions of the Continental Congress added greatly to the difficulty of advancing the New State project is revealed in Ira Allen's remarks in connection with the want of a popular ratification of Vermont's Constitution. "Had the constitution been then submitted to the people . . .," said he, "it is very doubtful whether a majority would have confirmed it, *considering the resolutions of Congress and their influence at that time*, as well as the intrigues and expence of the provincial Congress of New York who endeavored to divide

¹ 4 *Doc. Hist.*, 568-569.

³ *Id.*, 470.

² 4 *Doc. Hist.*, 569.

⁴ *Id.*

and subdivide the people.”¹ If the Continental Congress had been bold enough to denounce with greater severity Vermont’s secession, there might have been no State of Vermont to-day.

More disconcerting than the “intrigues” of New York or the rebuff encountered at the Continental Congress was the advance of the British under Burgoyne. Following the retreat from Ticonderoga, the troops under Colonel Seth Warner had been engaged by their pursuers at Hubbardton on Vermont soil on the morning of July 7. Here, in spite of Warner’s gallant resistance, the British gained the day and added to the fear which had spread over both Vermont and New York with the first news of the abandonment of Ticonderoga. Colonel William Marsh, of Manchester, was but one of many former Green Mountain Boys who from the west side of the State now sought refuge within the British lines. Nor was the panic confined to the west side of the mountains. In one day, as B. H. Hall informs us, from the thinly settled towns of Stratford and Thetford thirty men deserted and went over to the enemy.² Lieutenant-Colonel John Peters, of Bradford, in command of the Queen’s Loyal Rangers, and Captain Justus Sherwood, of New Haven, at the head of a company in Peters’s Corps, were two of the conspicuous settlers of the New Hampshire Grants who had taken the British side and were now actively operating under Burgoyne.

Of the conditions then prevailing in Vermont it may not be uninteresting to read the contemporaneous comment by Gouverneur Morris, who, almost alone among the members of New York’s Provincial Congress, had seemed to appreciate the gravity of the Vermont question and had urged the abolition of the quit-rents as a means of conciliation. He had been visiting some of the northerly New York points in company with Abraham Yates, junior, on a tour of inspection, to ascertain further particulars of the evacuation of Ticonderoga, and had just learned of the action of the Continental Congress in dismissing the petition of the New Hampshire Grants. Writing from Fort Edward under date of July 21, 1777, to Pierre Van Cortlandt, president of New York’s Council of Safety, he

¹ Allen’s *History of Vt.*, p. 109.

² B. H. Hall’s *History of Eastern Vermont*, p. 302.

drew with characteristic freedom of expression the following sensational picture:

"Sir:

Fort Edward, 21st July 1777.

"I congratulate the Council upon the sense of Congress relative to our northeastern country, discovered in their resolution, of which I have several copies. I had seen one, and supposing the letters to Doctor Williams,¹ Mr. Sessions² and Doctor Clarke³ to contain some of them; by the advice of Generals Schuyler and St. Clair, I opened the letters, and finding myself right in that conjecture, I detained them until your further order. Mr. Yates being at Albany, I was under the disagreeable necessity of standing alone whilst I incur your displeasure, should that be the consequence of what I have done.

"The Grants, sir, are in a situation extremely delicate. Skene⁴ is courting them with golden offers: he hath gained many; many more are compelled to submission. There are not a few warm advocates for the British Government among them.⁵ At present, it is of infinite importance to get as many of these people as possible to remove their families and effects, more particularly teams and provisions, from the vicinity of Burgoyne's army. Warner is their leader, and should he be disgusted, depend upon it he will draw after him, in the present circumstances, a very large train; for disagreeable as it may be to tell or to hear this truth, yet a truth it is, that very many of those villains only want a New-England reason, or if you like the expression better, a plausible pretext, to desert the American States, New-Vermont among the rest.

"The enemy will be able to make immense advantages from it, and they will hardly fail of doing so. Skene is at hand to flatter them with being a separate Province, and what will

¹ Colonel John Williams.

² Captain John Sessions, of Westminster.

³ Ebenezer Clarke, clerk of Charlotte County.

⁴ The reference is probably to the so-called "Governor" Philip Skene, who had acted as guide for Burgoyne's army.

⁵ General Schuyler, in a letter addressed to General Washington under date of July 17, 1777, had mentioned that there was much "Toryism" on the New Hampshire Grants and in the adjoining New York townships. See 1 *N. Y. Jour. Prov. Cong.*, 1005.

weigh more, to give them assurances of being confirmed in their titles, howsoever acquired.

"For God's sake, sir, let us take care that we do not, by throwing those people into the arms of the enemy, support them with what they most want, and cannot get without this imprudence; to do this with the greatest advantages in view, would not be very wise, but for the sake of a mere feather, (and the government of that country is nothing more, in the present critical juncture,) it would be something too like madness for me to name.

"Genl. Schuyler intends to write to the Council upon the same subject; if the reasons he offers should prove satisfactory, you will dispatch an express to prevent the publication of it in Loudon's paper, which I perceive is part of your plan. . . ." ¹

Gouverneur Morris's fear of the effect of publishing the resolutions of the Continental Congress, although to some extent shared by New York's delegates at Philadelphia,² did not impress New York's Council of Safety. In any event, his warning could not have been acted upon, since in his interception of letters he had missed the Council's letter to James Clay, which contained numerous copies of the resolutions for distribution. In respect to his doubt of the durability of Seth Warner's attachment to the Revolutionary cause, Gouverneur Morris soon was proved to be in error; but in the matter of British intrigue in "New-Vermont" and the resulting peril, history shows Morris's prediction to have been nearly a bull's eye shot, while in contrasting the cause of American independence with the diminishing and already doomed authority of New York over the region of the New Hampshire Grants, Gouverneur Morris—then but twenty-five—demonstrates that he had begun his career as a great national statesman.

With the foregoing particulars of the conditions during the first days of Vermont's statehood, we shall now pass to the administration of affairs under the provisional government of the New State's Council of Safety, which had been chosen by the Constitutional Convention at Windsor on July 8, 1777.

¹ *Jour. N. Y. Prov. Cong.*, 1011, 1012.

² *Id.*, 999.

CHAPTER XLII

THE COUNCIL OF SAFETY

IN a previous chapter we mentioned the names of Thomas Chittenden, Ira Allen, Paul Spooner, Benjamin Spencer, Jacob Bayley, and Nathan Clark, as six of the original members of Vermont's Council of Safety. We also quoted General Stark to the effect that the whole number was twelve. Twelve was the number prescribed in the seventeenth section of the Constitution.¹ Who were the other six members of that group of comparatively obscure men who ruled the State of Vermont with determination and efficiency during the first perilous eight months of her life?

Ira Allen, in his *History of Vermont*, refers to his brother, Heman Allen, thus: "Heman Allen, Esq., a member of the Council of Safety of Vermont, went to the field of battle. . . ." ² The "battle" was the Battle of Bennington, which occurred on August 16, 1777; so that unless Ira Allen, when writing in England his history twenty years later, had confused his brother's membership in some of the earlier conventions or committees with membership in the Council of Safety under the Constitution, we ought to accept Heman Allen as one of the original twelve appointees.

Another of the original members of the Council of Safety we assume was Doctor Jonas Fay, who on August 13, 1777, signed a letter on behalf of the Council as Vice President.³ The addition of his name would bring the list up to eight.

We have, under date of August 11, 1777, a letter to General Bayley from Paul Spooner, who wrote from the Council of Safety at Bennington, as its deputy secretary, in part as follows:

"As the Council is much crowded with business, as one of our members is with our Enemies (viz. Esq. Spencer) as an

¹ See also Mr. E. P. Walton's note in 1 *Gov. & Coun.*, 142.

² Allen's *History of Vermont*, p. 101.

³ 1 *Vt. Hist. Soc. Coll.*, 197.

attendance of all the Members is required (that are on this side the mountain) to make a quorum, and as some of us want to visit our families, we wish for your speedy attendance on the Council, together with the other Members on the east side of the mountain.”¹

Spooner's letter tells a good deal. Besides indicating that he was one of the Council of Safety himself, Spooner discloses to us that Bayley and at least two other persons “on the east side of the mountain” were, to a certainty, among the original members of the Council. It discloses, also, that Benjamin Spencer, of Clarendon, had been one of the original members and that he had deserted to the British. Assuming that Spooner's use of the word “quorum” conformed to the definition prescribed in the eighteenth section of the Constitution, there were but seven members of the Council present on the date of the letter.

It is not improbable that all four of the missing names were those of men who lived on the east side of the Green Mountains. Not only does Spooner's letter come near to implying it, but we have already six original members from the west side of the State—viz. Ira Allen, Heman Allen, Benjamin Spencer, Nathan Clark, Jonas Fay, and Thomas Chittenden—as against two known members from the east side in General Bayley and Paul Spooner; and we should not overlook the fact that the practice and policy then and thereafter was generally to observe a balance of power and an equal distribution of offices between the two sides of the Green Mountains. Such a policy must have been expedient in the interest of unity and harmony in the initial steps of State government. To have given less than equal representation to the eastern portion of the State, which was the region having the larger population, the larger portion of the little accumulated wealth and whatever there was of credit would have been highly impolitic. In this connection we should take notice that the two orders passed by the Council of Safety on November 24, 1777, and set forth in full in the first volume of *Governor and Council*, at page 200, show that at that date there were several “mem-

¹ 1 *Vt. Hist. Soc. Coll.*, 196, 197.

bers of the Council belonging on the east side of the Green Mountains" other than Paul Spooner.

Mr. E. P. Walton and others have found evidence—some of it inconclusive, we think—that before the Council of Safety terminated their labors in March, 1778, several members other than those we have mentioned had been elected or appointed. For example, there is a record of the election of Benjamin Carpenter, of Guilford, by the Constitutional Convention when it re-assembled at Windsor on December 24, 1777.¹ The Council's minutes also show that Moses Robinson, of Bennington, was a member in 1778,² while records of the first Assembly of 1778 indicate that Timothy Brownson, of Sunderland, and Jeremiah Clark, of Shaftsbury, may have belonged to the Council of Safety at the expiration of the Council's term of office.³ Mr. Walton from his discoveries was led to a finding that Robinson, Brownson, and Jeremiah Clark were original members.⁴ In this conclusion we cannot concur. As to Mr. Walton's inclusion of the name of Joseph Fay as a member of the Council, we can do no more than refer to Governor Hall's doubts.⁵

We should bear in mind that the Constitution itself gave the Council power to fill vacancies in their own body. In the absence of a full daily journal of the proceedings we have to rely mainly on the letters, orders, and resolutions emanating from the board; and although but one letter has been preserved showing the election of a new member, and although the election in that case was made by the Constitutional Convention at the additional session in December, 1777, there seems no reasonable ground for assuming that the Council of Safety failed to exercise their constitutional power while the Convention was not in session, or that Benjamin Carpenter was the only person chosen to fill a vacancy by the Constitutional Convention or otherwise. Take, as an example, the case of Moses Robinson. All authorities agree that he was

¹ 1 *Gov. & Coun.*, 204

² *Id.*, p. 211.

³ 8 *Gov. & Coun.*, 453, and notes. The evidence rests on the assumption that Brownson and Clark, having been elected to the first "Governor's Council," had not been elected to the Assembly. Joseph Bowker and perhaps others were elected to both.

⁴ *Id.*

⁵ *Early History of Vermont*, p. 259, note.

eventually a member of the Council of Safety: the record proves it. But unless General Stark and Aaron Hutchinson erred in their testimony to the effect that the Council were originally composed of delegates who had been present at the Constitutional Convention in Windsor on July 2-8, 1777, then Moses Robinson, who at that time was with his regiment, either near Hubbardton¹ or at Bennington,² and not at the convention at all, could not have been an original member of the Council.

Mr. Walton appears to be of opinion that Heman Allen finally terminated his services with the Council of Safety when he left to engage in the Battle of Bennington.³ Ira Allen seems to limit his own membership in the Council of Safety to the year 1777.⁴ He signed papers for it as secretary, until September 6, 1777, but not once thereafter, was obviously not in attendance at its sessions with regularity after that date⁵ and, for all the records show, was uniformly absent. As to Jacob Bayley, there is no evidence that he was present at a single meeting, yet the fact that the Council on September 4 appointed him with Doctor Fay and Ira Allen as a committee to wait on General Benjamin Lincoln, gives color to the belief that General Bayley was in attendance on that day.⁶ On September 22 we find General Bayley at Castleton, but far more occupied with the prosecution of the war than with the management of the New State.⁷ Taking the records of the Council as a whole there is so much to suggest occasions for filling vacancies from time to time that one is quite justified in the opinion that the personnel of this body in March, 1778, was considerably changed from what it was at the date of its creation.

The writer confesses that he has been baffled in his search for the names of the four remaining members of the original Council of Safety. Believing that most, if not all, of the four were inhabitants of the east side of the Green Mountains, he offers the names of Colonel Joseph Marsh, of Hartford, Colonel William Williams, of Wilmington, Colonel Peter Olcott, of

¹ 1 *Vt. Hist. Soc. Coll.*, 166.

² *Id.*, 175.

³ 1 *Gov. & Coun.*, 115.

⁴ 3 *Gov. & Coun.*, 418.

⁵ 1 *Gov. & Coun.*, 142, 204.

⁶ *Id.*, 159.

⁷ Wells, *History of Newbury*, 395.

Norwich, Colonel John Barrett, of Springfield, Captain William Dean and Ebenezer Hoisington, of Windsor, Reuben Jones, of Rockingham, and Benjamin Emmons, of Woodstock, as worthy of consideration. Several of these men, of course, by reason of active military duties, could not have attended the Council's sessions with regularity, but the deference shown towards some of them and the authority vested in them by the Council's letters and orders prove that Marsh, Williams, Olcott, and Barrett, at least, held very close relations to the Council of Safety. An absentee membership in the Council might have been a not intolerable institution from the standpoint of the known active members, who, interested mainly in prospering the organization and recognition of their New State, would thus be unhampered by the presence of the army members with the soldiers' instinct to treat the successful operation of the war as of somewhat greater moment than forcing the development of a New State government.

Mr. Frederick P. Wells, in his valuable *History of Newbury*, states upon the authority of Mr. L. E. Chittenden that Jacob Bayley became a member of the Council of Safety "at the personal solicitation of Thomas Chittenden, who represented to the Convention the importance of having the strongest man east of the mountains on the board."¹ If Thomas Chittenden entertained such sentiments he might have gone further and described General Bayley as the strongest character on the New Hampshire Grants, for the history of the several conventions shows that the members were possessed of that idea in their repeated efforts to make Bayley one of their New State party. At Windsor this ambition was satisfied. They were shrewd enough, however, not to make him their chairman or president; but in choosing for that office Thomas Chittenden, there is suggestion of Bayley's influence, for, as we have seen before, Bayley had grave doubts of the character of some of the other men who were to be his colleagues.

The choice of Chittenden as president of the Council of Safety is commonly based on his sagacity and experience. With certain reservations we may admit that he was lacking in neither of these respects. He had been a militia colonel and

¹ Wells, *History of Newbury*, 110.

a member of the Colonial Assembly in Connecticut, the State to which, beyond all the others, Vermont looked for sympathy. He had once voyaged to the West Indies. He was older than any other of the known original members of the Council except Nathan Clark, had been appointed several times to committee work by the New Hampshire Grants conventions, and had once been to Philadelphia. Nevertheless, so far as contemporary records are controlling, he had shown himself less of a figure in the New State movement than Heman or Ira Allen or Doctor Jonas Fay. Furthermore, he was illiterate; although that failing on his part, in the advantage over him which it gave to the persons last named, was not without its value to them. Under these circumstances and in view of the anxiety of the convention to secure the co-operation of Jacob Bayley, the writer inclines to the theory that Chittenden was a compromise candidate put up for the office in the belief that General Bayley's antipathy for the Allens and the Fays would make the elevation of any of them inexpedient, and that with Chittenden as the titular head of the Council General Bayley would be more likely to work in harmony. Although he failed to keep General Bayley's good will, Thomas Chittenden through his complete understanding of the temper of the majority of Vermonters developed into a very considerable personage in the history of the State.

The records of the proceedings of the Council of Safety, so far as they have been preserved, have been printed with Mr. E. P. Walton's helpful annotations in the first volume of *Governor and Council*, at pages 130 to 229. The journals begin with appeals to the Council of New Hampshire for military aid. The new State of Vermont had neither an army nor the revenue for raising troops. On the proposal to recruit a regiment Nathan Clark doubted the practicability. Ira Allen, according to his own version, met the difficulty by his plan of seizing and confiscating the goods of those who had joined or should join the enemy. On the strength of this solution the Council commissioned Samuel Herrick as lieutenant-colonel of the first Vermont regiment of rangers.¹ Encouragement came in the shape of a letter from Meshech Weare, president of the

¹ Allen's *History of Vermont*, p. 96.

New Hampshire Council of Safety, in which he addressed Ira Allen as "Secretary of the State of Vermont." Not less than thrice Weare used the words "your State" besides promising that Brigadier General Stark was about to march with three battalions to defend the frontiers of Vermont against the British.¹

Weare's letter, dated July 19, 1777, was very naturally regarded by Vermont's Council of Safety as a recognition of Vermont's independent statehood, but Meshech Weare at the moment was "all things to all men": on August 5, 1777, he wrote to Pierre Van Cortlandt, chairman of New York's Committee of Safety, that General Stark had orders "to march into *your* State and join Colo. Warner" and that "I was informed this day that he had sent off from No. 4 700 men to join Colo. Warner at Manchester. . . ." ² To Meshech Weare it seemed best to describe the location of the town of Manchester in the manner that would best please the individual whom he chanced to be addressing. General Stark, however, on the strength of Weare's orders to him³ was unequivocal in treating Vermont as a State⁴ while General Schuyler, on the other hand, was scrupulously careful not to do so.⁵

With such endorsement as Weare and Stark had given, the Council of Safety proceeded with no little assurance. They collected funds through the seizure and confiscation of Loyalists' possessions; they raised and equipped troops for Herick's command; they advertised in the Hartford (Connecticut) *Courant* for the aid of Vermont settlers who through fear of the British had sought refuge in Connecticut and Massachusetts; they imprisoned "disaffected" persons and they made an example of the case of James Clay, the chairman of Cumberland County's Committee of Safety, who had dared in obedience to orders from New York to distribute in his county copies of the *Resolves of the Continental Congress* of June 30.⁶

The Council of Safety, sitting first at Manchester and next at Bennington, were not a little disturbed by the reports from

¹ Slade's *Vt. State Papers*, p. 80.

² 1 *Gov. & Coun.*, 133.

⁶ 4 *Doc. Hist.*, 569, 570.

² *Clinton Papers*, vol. 2, p. 228.

⁴ *Id.*, 144.

⁵ *Id.*, 133.

Cumberland County. In the belief that a chief cause of the uneasiness lay in the dissemination of the *Resolves of the Continental Congress* of June 30, the Council published in the *Hartford Courant* of August 18 an address in explanation of the *Resolves* and sent Ira Allen across the Mountains into Cumberland County to exert his efforts in pointing out that the Continental Congress, although refusing to recognize Vermont as a separate State, did not fully comply with the demands of New York.¹ Ira Allen's brief memorandum of this important mission, submitted in support of his expense account,² gives us the only report of his journey that has been preserved. He says he devoted fourteen days—from August 10 to 24—to the business of explaining the *Resolves*, counteracting the policy of New York, appointing some officers for Colonel Herrick's regiment, paying bounty money, etc. He does not mention the names of any of the towns he visited, but since the appointment of Benjamin Wait, of Windsor, as major in Colonel Herrick's regiment, followed soon after Allen's return to the Council, it is not unlikely that Windsor was the base of his operations. A wise distribution of military commissions and a little "bounty money" doubtless went far towards stimulating the sentiments which Ira Allen sought to engender. Many miles behind the guns this astute politician was doing his own effective work while General Stark and Colonel Seth Warner were fighting one of the decisive battles of the American Revolution to the west of Bennington.

There are other items in the records that give hint of Ira Allen having been in close touch with the town of Windsor at that time. Four days after his return to the Council of Safety that body sent this notice "to the Committee of Safety in Windsor" and the adjacent towns:

State of Vermont. In Council of Safety, 29th August, 1777.

Gentlemen,—All such persons as you shall have sufficient Evidence exhibited against on Tryal as to prove them so far Enemies to the *Liberties of America* as to be dangerous persons to go at Large you will send to Westminster Gaol, and put

¹ H. Hall's *Early History of Vermont*, pp. 267–268.

² *Thompson's Vermont*, part II, p. 107, note.

them in Close Confinement; if you send any prisoners to said Gaol, you will send a proper Guard, provided it should happen before any prisoners or Guards should be sent from this.

By order of Council,

Thomas Chittenden, Pres't.¹

On the date of this letter the Council of Safety had already in hand some "evidence" against Watts Hubbard, junior, of Windsor. They included his name in a "list of tories," fourteen in number, in a letter transmitted on that very day to General Benjamin Lincoln, of Massachusetts, who was then stationed in Vermont.² Unfortunately, the papers of General Lincoln, which for many years were kept by his family at Hingham, have been scattered, and it has been impossible to trace the "evidence" against Hubbard, which was enclosed in the Council's letter. That Hubbard was long a prisoner, was put on trial months later, and was deprived of considerable personal property is a matter of record to which we shall later refer. He seems eventually to have secured release temporarily on a bond given in his behalf by Captain Zedekiah Stone and Alexander Parmelee.³ Whatever the extent of Hubbard's coolness to the Revolutionary cause or the New State, it was insufficient to cause his banishment. He remained a resident of Windsor as long as he lived, and for a brief period was enrolled as a soldier.

In the scanty records of what was now going on in Windsor there is enough to show that there was fear of local disorder, even if no actual outbreak occurred. Soldiers were detailed to protect Windsor's Committee of Safety.⁴ Our old friend Colonel Nathan Stone, the deposed political leader of the town, was regarded as one of the "dangerous persons to go at large." Outspoken in his contempt for the New State movement, there is a hint that he was also suspected of hostility to the American cause. At least, we find in the Revolutionary Rolls that in the month of August, he, with others, was taken by soldiers of Captain Zebulon Lyon's company to Springfield⁵—perhaps on the way to Westminster jail. Colonel Stone,

¹ 1 *Gov. & Coun.*, 152.

² *Id.*, 153, 154.

³ 1 *Gov. & Coun.*, 247.

⁴ Goodrich, *Vt. Rev. Soldiers*, pp. 798-799.

⁵ *Id.*

with the memories of his exploits as a leader of the Windsor rioters of 1770 still fresh in the minds of his neighbors, might easily have become an object of fear to those whom he hated or despised. Among the soldiers who conducted him out of town were Zebina Curtis and David Hunter. The writer has found no further record of this prosecution of Colonel Stone, who, nineteen months later, still untterrified and unsubdued, was stoutly cursing the New State and its officers.¹

¹ B. H. Hall's *History of Eastern Vermont*, p. 331.

CHAPTER XLIII

IN WINDSOR ON CHRISTMAS EVE

THE defeat of General Burgoyne's troops in the Battle of Bennington, followed by other reverses and the final surrender of Burgoyne's army at Saratoga on October 17, relieved greatly the pressure on the men who were managing the new State. To their project they were now able to give almost undivided attention. New York, being closely engaged in the work of installing her own new State government and intent on the prosecution of the war, had temporarily suspended the prosecution of her claim to Vermont. Vermont's Council of Safety now took time to sit in judgment in occasional cases of private litigation, as the county committees had previously done, and passed sundry ordinances for the government of their constituents. By the end of October the Council felt justified in taking a recess of twelve days. Ira Allen had found moments in which to write another pamphlet of *Miscellaneous Remarks*, which he caused to be printed at the press of Hannah Watson in Hartford in Connecticut.¹ This was a brochure dealing mainly with the Constitution of New York and the communications addressed by New York to the Continental Congress concerning the rebellion on the Grants. It ended with an exhortation to the Vermont settlers to cast intelligent votes at the election which he then expected would take place late in December.

Here occurred a change in programme. In collaboration with Chittenden at Williamstown in Massachusetts, Ira Allen had, as he says, spent some time in "writing the Preamble to the Constitution."² Since the first and last parts of this Preamble are almost verbatim the Preamble of the Pennsylvania Constitution, and since the remainder was merely a revision of the recitals already incorporated in the petition addressed

¹ *Vt. Hist. Soc. Coll.*, vol. 1, pp. 133-144.

² *Thompson's Vermont*, part II, p. 107, note.

to the Continental Congress earlier in the year and restated in the published list of causes for secession from New York, the "writing" of the Preamble was neither a heavy nor an original piece of work. Allen, however, professed to attach importance to it. He seems to have regarded the Vermont Constitution as incomplete without it, for he spoke of the Constitutional Convention of July, 1777, as having adjourned "without accomplishing" the establishment of the Constitution.¹ Elsewhere he speaks of the Constitution as then "not fully compleated."² In the opinion of this shrewd student of human nature it may have seemed essential to preface the Constitution with something more inflammatory, to insure a reading of the whole document in a warm, indignant, and rebellious spirit. The Preamble, revised to suit him and Chittenden, was turned over with the draft of the Constitution to one John Knickerbocker—ominous New York name—to make a fair copy for the printer³; but the publication of the famous document was held back.

The first public announcement of a cause for deferring the distribution of printed copies of the Constitution appeared in the following letter written by Chittenden to Joseph Bowker, under date of November 25, 1777:

"Sir.—The Confusion & Multiplicity of Business Occasioned by the Unhappy War in the Northern Department since the appointment of this Council has prevented their being able to git the constitution printed which oblidges us this Council to desire you to Call together the old Convention to meet at Windsor, on Wednesday the 24th of December Nexte, which you will not fail to do. I am Sir (by order of Council)

your most Obedient Hum^ble Servant,

Capt. Bowker

Thos. Chittenden,

"P. S. The business of the Convention will be to Adjourn the meeting of the General Assembly. Thos. Chittenden."⁴

It may be that a truer reason for failure to "git the constitution printed" is revealed in Ira Allen's *History of Vermont*

¹ 3 *Gov. & Coun.*, p. 418.

² Allen's *History of Vermont*, p. 95.

³ *Thompson's Vermont*, part II, p. 107, note.

⁴ 1 *Gov. & Coun.*, 201.

at page 109, where he gives as an excuse for not submitting the Constitution to the people for ratification his belief that the Resolves of the Continental Congress and the intrigue and money of New York made it doubtful whether a majority of the people of Vermont would have "confirmed" the Constitution at that time. He alleges on page 108 that after he and Chittenden had dealt with the Preamble "there was not time, before the day assigned for the election, to print and publish the constitution"; but since there had been plenty of time to compose, print, and thereafter to publish sundry articles in the *Connecticut Courant*, and the somewhat elaborate pamphlet edition of Ira Allen's latest *Miscellaneous Remarks*, we feel like questioning the frankness of both Chittenden and Allen in their announcements of the reason for postponing the issuance of printed copies of Vermont's Constitution. Somebody in the convention had actually brought up the question of ratification by the people. Ira Allen thought it presented a difficulty. The decision reached was that "the best way to evade it was to keep it in as small a circle as possible."¹ Perhaps the professed need of attending to the Preamble was merely stage play to create an impression that the Constitution could not earlier have been handed to the printer. That the Council had received from the convention of July, 1777, any authority to enlarge the Constitution by a Preamble or otherwise has never been suggested. There need be little wonder on reading in one of Ira Allen's letters, written years later, to find him recalling that "much address was made use of to establish the Constitution of Vermont, amidst war, political parties, claims of neighboring states and opposition by Congress."²

The appointment of Benjamin Wait as major in Herrick's regiment was not the only favor that had been distributed by the Council of Safety to Windsor at this period. We find that on August 30 Richard Wait was in command of a company of Rangers.³ John Benjamin received a captaincy in Colonel Joseph Marsh's regiment of militia. Enrolled in Captain Benjamin's company, from August 16 to October 4, we find the

¹ Allen's *History of Vermont*, p. 108.

² 3 *Gov. & Coun.*, 419.

³ *Vt. Rev. Rolls*, p. 783.

names of Lieutenant Benjamin Wait, Sergeant Asa Worcester, and Privates Joel Butler, Silas Bannister, Zebina Curtis, Lot Hodgman, Elihu Newell, Steel Smith, David Hunter, Joseph Woodruff, and William Porter.¹ Vermont's Council of Safety paid a special honor to Captain Ebenezer Curtis in appointing him one of a committee of three, with Doctor Paul Spooner, of Hertford (Hartland), and Colonel Peter Olcott, of Norwich, as the other two, "to settle with the Commissioners of Sequestration on the East Side of the Green Mountains."² In this office Ebenezer Curtis had much to do with the forfeited possessions of the Loyalists. One of the Commissioners of Sequestration was Ebenezer Hoisington, who at one time showed seventy-eight pounds fifteen shillings and sixpence extracted from his unfortunate townsman Watts Hubbard, junior.³ The members of Windsor's Committee of Safety were busy in Windsor and neighboring towns with cases of persons charged with "disaffection." With such offices of honor or profit held by the men of Windsor the town's ardor to prosper the New State must have been appreciably enhanced.

Windsor saw at this period something of the assembling of the troops for the front. Here, on September 26 to 29, Colonel Joseph Marsh's regiment of militia was reinforced by Colonel Jacob Kent's command and began its march across the Green Mountains.⁴ The town seems to have been a collection post and the point of shipment for army supplies destined for the west as well as the point of departure for Loyalists who were marched west or south under guard.

Immediately to the south of Windsor, beginning with the town of Weathersfield, the region of the Grants as far as the Massachusetts line gave strong manifestations of allegiance to New York. Major Hilkiah Grout, of Weathersfield, Major Simon Stevens, of Springfield, Captain John Sessions, of Westminster, and James Clay, of Putney, still had substantial followings in the opposition to the New State movement, while the towns of Brattleboro and Hinsdale (Vernon), well settled and organized, showed nearly unanimous support of New

¹ *Id.*, p. 28.

² *1 Gov. & Coun.*, p. 200.

³ *MS. Vt. State Papers*, "Courts."

⁴ Wells, *History of Newbury*, 381.

York's jurisdiction. Mr. B. H. Hall, in his *History of Eastern Vermont*, tells at length of the efforts made by the inhabitants of southeastern Vermont at this period to stem the tide of the New State idea.¹ The outside influence or pressure which was now brought to bear by others on the New York sympathizers, whether in the form of peaceful persuasion or threat of injury, was exerted mainly by the Vermont party. Our intelligent friend Captain Sessions, in a letter written by him to John McKesson, secretary of New York's convention, stated the case admirably:

Westminster, 4th Septem^r. 1777.

Sir:—It gave me Peculiar Satisfaction when I found not only by your letter but by the Resolves you therein mention that our affairs have ben upon the Carpet in Congress, but it by no means answers the end (at Present) to stop the Progress of the faction respecting a New State. I would have sent you one of the Connecticut Papers wherein is contained the Construction those People put upon the Resolves of Congress, but I conclude you have seen it so that it will be kneedless. If they had Resolved that they would break their necks if they did not Desist I don't know but those People might have thought they were in arenest; but the Hon^{ble} Congress and Council of this State will become more Sencable (I trust) of the Temper and Disposition that actuates those People than they have ben, and I am sorry they han't before now. If it had been suppress sooner it in all Probability might have ben Effectual; but the Event now I am unable fully to Determine, altho I can Conjecture & is what I should Dread. My opposition has rendered my Situation somewhat unhappy at present but trust shall find the old Maxim True in the end—(viz.) honesty is the best Polacy. I have ben a Sort of Micaiah in the affair & believe many would be glad I were in the house of Jonathan & have threatned; but if sumthing is not Done Soone shall be obliged to give up the Point. As to News I have nothing special to Write only it is a very sickly time among us and in Neighbouring Towns. Should be glad of a Line from you whereby I may understand what your Sentements are about

¹ B. H. Hall's *History of Eastern Vermont*, pp. 305–307.

our affairs as I want to act with safety and Prudence both for my Self, State and Country.

Sir, I am with Due respect
your most obedient ser^{nt}

John Sessions¹

It was the old story over again. Britain had dallied over the points at issue between Benning Wentworth and the Province of New York, had rendered a decision only after fourteen years of suspense, had announced the decision in terms susceptible of different constructions and had done little or nothing to enforce it or to make adequate regulations thereunder. The Continental Congress, weak and timid, had failed to compose the difficulty. New York was unequal to overcoming it. Aside from the extremists on both sides, there were few who understood the posture of the case or appreciated its gravity. Among those few were Gouverneur Morris, of New York, and John Sessions, of Westminster.

In anticipation of the re-assembling of the Constitutional Convention at Windsor, the Council of Safety took a recess on December 20. To Windsor some of the Council undoubtedly repaired. How many of the delegates who had attended the convention in July again turned up in Windsor on Christmas Eve no record reveals. Neither record nor tradition helps to show whether this supplementary session was held in the Old Constitution House or in the Town House. Although the fear of British attack had vanished and the delegates felt more free to leave their homes for a brief time, it seems unlikely that the meeting on December 24 was largely attended. Not only was the season inclement, but the call for the meeting, as served by Chittenden on Chairman Bowker, gave notice that the session would be unimportant. It does not appear that the delegates knew in advance that they would be called upon to pass on the Preamble as changed by Chittenden and Ira Allen.

The Constitutional Convention, having re-assembled at Windsor on December 24, accomplished four things. According to programme, it postponed the first elections from Decem-

¹ 4 *Doc. Hist.*, 572.

ber to March 3 and the first session of the General Assembly from January to March 12. The other three achievements were the adoption of the Preamble or the amended Preamble, the appointment of Benjamin Carpenter, of Guilford, to the Council of Safety, and changing the place of the first legislative session from Bennington to Windsor. The last item, which seems to have been unexpected, was interesting. No historian has assigned a reason for this move. We can only conjecture as to the causes.

We find in Ira Allen's *History of Vermont* the statement that the town of Bennington at some time objected to the Constitution for want of popular ratification.¹ If a fact, this seems a slight cause for discarding Bennington as the place for the first meeting of the legislature. Besides, the first legislature, after a session at Windsor, adjourned to Bennington. The same author mentions that once the Constitutional Convention for the sake of harmony yielded to the wishes of a minority of the delegates,² but there is nothing to show that the demand for Windsor as the legislature's first meeting-place was not the demand of the majority. Why Bennington was selected in the first instance has never been explained, and apparently the substitution of Windsor was voted unanimously.³ The fact that at Windsor the great work of founding the New State had been successfully accomplished was in itself a sufficient reason for having the first legislative session there. The town had become a sort of State capital. It was entitled to see the beginning of the permanent constitutional State government.

Thus at Windsor on Christmas Eve, 1777, the Constitution of Vermont, which had been established there six months earlier, was amended and "compleated" and the town was in effect created the State capital.

¹ Allen's *History of Vermont*, 110.

² *Id.*, 108.

³ 1 *Gov. & Coun.*, 215.

CHAPTER XLIV

THE FIRST CONSTITUTIONAL ELECTIONS

VERMONT'S Council of Safety resumed sittings at Bennington on January 3, 1778. This body continued to exercise executive and legislative functions in managing the military establishment and regulating Tories. It continued, also, its judicial functions in dealing with private disputes. In its capacity as a Board of War it ordered the raising of a new volunteer regiment, with Samuel Herrick as colonel and Benjamin Wait as major, to join a proposed expedition against Canada. Almost blithely Vermont's provisional government pursued its business while Washington's army, under the appalling conditions of the Valley Forge winter, was passing through the darkest days of the Revolution. For several months no new move by the Continental Congress or by the State of New York had jarred the Vermont situation, but from another source now sprung a movement that was fraught with danger.

At Danvers, in Massachusetts, at the press of E. Russell, an anonymous writer who named himself "Republican" secured the printing of a pamphlet entitled "Observations on the Right of Jurisdiction claimed by the States of New York and New Hampshire over the New Hampshire Grants (so called) Lying on Both Sides of Connecticut River." In the form of a long letter to "The Inhabitants on said Grants," dated January 6, 1778, this pamphlet consisted of an argument to show that not only the New Hampshire township grants on the west side of the Connecticut River, but also those on the east side of the river and west of the "Mason Line,"¹ in New Hampshire were legally outside the jurisdiction of any of the original thirteen State governments and free, if they so chose, to form themselves into a State or separate States of their own. The argument, although lame and clumsily worded, obtained circulation and gained converts.

¹ The westerly line of the Mason Grant of 1629 was somewhere about twenty miles to the east of Connecticut River.

It excited many settlers on both sides of the Connecticut River into a belief that some of the New Hampshire towns lying near the river might legitimately and advantageously be added to the State of Vermont.

The text of the Danvers pamphlet, which Mr. E. P. Walton very properly has reprinted in full, may be found in the fifth volume of *Governor and Council* at pages 513 to 521. The agitation it produced in the locality to which it referred was profound. Although the idea of admitting some of the New Hampshire towns into Vermont had been broached seventeen months earlier, the Danvers pamphlet, according to Ira Allen, was the means of making the subject one of larger and more general interest.¹ He intimated that the underlying scheme had its origin in the minds of some New Hampshire residents who thought that thereby they might bring Vermont's future seat of government to the Connecticut River. He mentions that these persons had met in conference on this matter at Hanover, and he seeks to give the impression that to them was due the appearance of "Republican's" printed argument.² On the two latter points, however, Ira Allen is not altogether convincing. He might better have admitted that, whatever the origin of the pamphlet, it had the effect of stimulating interest in the coming Vermont elections among the citizens of Gloucester County, the northern part of Cumberland County, and western New Hampshire, and arousing in those sections a larger and more ambitious hope for the success of the new State. To a corresponding degree it diminished the prospects of a large measure of control over the new State continuing so firmly in the hands of the Allens, the Fays, Thomas Chittenden, and others on the west side of the Green Mountains. Broadened as the scope of the new State's potentialities thus became, there was obviously and inevitably an increase of risk in the likelihood that the State of New Hampshire, instead of remaining friendly to Vermont, would regard Vermont's inclusion of several New Hampshire towns as an act of hostile encroachment and would thus become an enemy.

The southeast corner of Vermont remained as unreconciled as ever to secession from New York. On January 28, as B. H.

¹ Allen's *History of Vermont*, pp. 113-114.

² *Id.*

Hall tells us, there assembled at Brattleboro a meeting of men of Cumberland County, who prepared an address or petition to New York's legislature, reporting that a convention of the "pretended State of Vermont" had formed a constitution, had prohibited the exercise of any governmental authority derived from New York, had made "laws" to bind the inhabitants, and were about to hold an election. The petitioners prayed protection from the evils that this new insurrectionary government threatened, and they appointed James Clay as their agent to lay their case before the New York Assembly.¹ In response to this petition "and others similar," as Mr. Hall asserts, Governor Clinton, pursuant to authority vested in him by New York's Assembly, published and distributed throughout Vermont as extensively as was then practicable, his proclamation of February 23, 1778.²

Intended as a conciliatory document, Governor Clinton's proclamation failed in most quarters to produce a favorable impression. It asserted New York's supremacy, but offered confirmation titles on terms. Governor Hiland Hall points out its defects at length in his *Early History of Vermont*, at pages 273 to 275. Although the town of Halifax regarded the proclamation as acceptable and wrote to Clinton a letter, signed by forty-six inhabitants, expressing gratitude and approval,³ that instance seems an exception. Colonel John Williams, of Charlotte County, thought that the proclamation had been generally suppressed and kept from the people in his neighborhood⁴ and that in some of the towns it had been burned.⁵ Mr. B. H. Hall, who never failed to give New York credit for anything that had the appearance of wisdom or fairness or justice, admits that the proclamation "was generally regarded as an unfortunate production."⁶ If it had an effect upon the course of events it was rather to solidify the partisans of the New State movement and to make them more determined; for it gave grounds for the growing conviction that New York was resorting to words by reason of inability

¹ B. H. Hall's *History of Eastern Vermont*, p. 309.

² *4 Doc. Hist.*, pp. 573-575.

⁴ *Id.*, p. 262.

³ *3 Clinton Papers*, pp. 16-17.

⁵ *Id.*, p. 40.

⁶ B. H. Hall's *History of Eastern Vermont*, p. 310.

to coerce by acts. Moreover, it had the ill-luck to be anticipated by an announcement by Thomas Chittenden, as president of Vermont's Council of Safety, reporting that everything was now in readiness for Vermont's first State election under the Constitution.

On February 6, 1778, this letter or proclamation of Thomas Chittenden's had been issued "to the inhabitants of the State of Vermont." It reported that the Constitution had been unanimously agreed upon, that the day of election had been fixed by postponement for the first Tuesday of March, that the Assembly would open session at Windsor on the second Thursday of March, and that "the Constitution is now printed & will be distributed among the Inhabitants of the several Towns in this State so early that they (*sic*) may be perused before the day of Election. . . ." ¹ B. H. Hall thought that the copies of the Constitution were actually distributed by the Council of Safety on the date of Chittenden's letter, ² but this seems hardly likely, in view of the passage last quoted, nor does it seem to accord with Ira Allen's recollection. The latter wrote in his *History of Vermont* that he "returned from Hartford in Connecticut a few days before the time of the general election with the constitution printed and dispersed it." ³ To have delayed to the latest practicable moment the circulation of the copies for general reading would not have been inconsistent with the ideas of the men on the "inside" who had detected a "difficulty" and had "concluded the best way to evade it was to keep it in as small a circle as possible." ⁴ Probably the copies of the Constitution reached the public nearly simultaneously with the copies of Governor Clinton's proclamation.

So the first Vermont election came on. Of whatever warning or notice for this election may have been posted in Windsor there is no record. Possibly a copy of Chittenden's letter of February 6, and a printed copy of the Constitution may have been all. Fortunately, the minutes of Windsor's meeting and election remain and show the town's ratification of the Constitution. All the important acts of this meeting took

¹ 1 *Gov. & Coun.*, 215.

² Allen's *History of Vt.*, p. 109.

³ *History of Eastern Vt.*, p. 308.

⁴ *Id.*, p. 108.

place at "the house of Ensⁿ Steel Smith," which, we assume, was the building long known as the Evarts farmhouse—the first frame dwelling erected in Windsor—and which, until destroyed by fire in recent years, stood on the knoll to the west of the main highway, about one-fourth of a mile north of the present village of Windsor. Those who remember March meetings in frigid town halls can easily appreciate the alacrity with which the Windsor freemen of 1778 adjourned from the meeting-house to the warmth and comfort of Steel Smith's home, where the prospect of securing a hot rum toddy was even more alluring than the opportunity to vote for town representatives, councillors, or governor. The full record of the meeting and election follows.

"Att a Legal Meeting of the Freeholders and Inhabitants of the Town of Windsor held att the Meeting house in Said Town on Tuesday the third Day of March 1778 by Virtue of the Constitution

"1^{ly} Voted and Chose Cap^t William Dean Moderator

"2^{ly} Voted to Adjoin Said Meeting to the house of Ensⁿ Steel Smith

"Meet according to adjoinment and Proceeded

"3^{ly} Put to Vote whether the people wold act under the Constitution

"Voted in the affirmative

"4 ^{ly} Voted and Chose Thommas Cooper	{ Representytives to attend the General Assem- bly
"5 ^{ly} Voted and Chose Eben ^r Curtis	

"6^{ly} Voted and Chose Cap^t Joel Ely, Cap^t John Benjamin and Eben^r Hoisington for a Committe to Remove the Ferry to the Town Landing.

"7^{ly} Voted to Desolve this meeting." ¹

Other towns—although nobody has yet found the exact number—held meetings similar to Windsor's. Ira Allen put the matter thus: "There was one (or more) in each town who

¹ Windsor Ms. Records. Unfortunately the minutes contain no record of votes for governor or other State officers.

coveted the honour of being a member of the first general Assembly of the new State of Vermont. It was, therefore, their interest to induce their friends to attend the meeting, and take the freeman's oath. . . . Bennington was the only town that objected against the Constitution, for the want of a popular ratification of it. Only twenty-one freemen qualified in that town, who elected representatives for the first general Assembly. . . ."¹ Colonel John Williams, writing from Albany to Governor Clinton on March 14, 1778, reported having heard that only one-third of Bennington's freemen voted and that "the others went home dissatisfied with their proceedings. . . ."² Brattleborough, although holding a meeting on March 3, seems to have acted in defiance of, rather than in conformity to, the Constitution. The freemen of that town voted unanimously to send a protest to the Assembly of the "pretended State" denouncing secession from New York as an act tending to "disunite the friends of America. . . ." Brattleborough also appointed a committee of five to consult with other town committees on steps to check the "unjustifiable proceedings of Vermont."³ Miss Cabot, in her *Annals of Brattleboro*, is quite within the facts in stating that that town "had no part in the formation of the State."⁴ A few other towns in southeastern Vermont were of similar mind, yet perhaps none of them so overwhelmingly strong as Brattleborough in allegiance to New York. The story of the opposition to the New State in this quarter, as far as Mr. B. H. Hall could trace it from the records, is told very fully in his *History of Eastern Vermont*.

That this defection in southeastern Vermont was not extinguished more promptly may have been due less to the number of the towns and individuals of New York sympathies than to the quality of some of the leaders. These, in several cases, were men of character and attainments beyond the ordinary. Perhaps the most notable of all the New York adherents at this period was Micah Townsend, of Brattleborough, who eventually was converted into one of the most respected citizens

¹ Allen's *History of Vt.*, pp. 109, 110.

² *3 Clinton Papers*, p. 40.

³ B. H. Hall's *History of Eastern Vt.*, pp. 310-311.

⁴ *1 Annals of Brattleboro*, p. 116.

of Vermont. In 1778, having but recently become a settler in the State and having planted himself among people who, almost to a man, shared his own ideas of fealty to his native State of New York, he had not learned the unconquerable determination of the majority of the inhabitants in other parts of the New Hampshire Grants. But the die was cast despite the tenacity of the Brattleborough, Hinsdale, and Halifax groups, and despite Governor Clinton, with the great majority of New York behind him.

It seems singular that Gouverneur Morris, who had in his nature and in his politics far less in common with the early settlers of Vermont than had George Clinton, should have appraised the situation so much more nearly right. What purports to be an extract from a letter written by Morris to Clinton under date of March 4, 1778, Mr. E. P. Walton has happily preserved. Its statesmanlike views and its downright tone are a refreshing contrast to most of the contemporaneous literature relative to the subject. With no apology for the length of the quotation and confident that it will please the reader, we set it forth.

“Moor Hall, 4th March, 1778.

“Sir:

“I take the liberty of writing to you upon a subject of the utmost importance to our State. By following so much of St. Paul’s advice as to become all things to all men I find clearly from the very best authority that without nice management we shall certainly lose the State of Vermont. The Eastern States are determined that they shall not be oppressed—to use their phrase. The prejudices of the people are against us: so are their interests. Designing men take advantage of these circumstances to forward their own private views. ’Tis absurd to *reason* against the *feelings* of mankind. Neither is it much to the purpose whether our claim is *right*; for if it be, the most which can be said for us is that we have *right* without *remedy*. What are their claims? Occupancy, settlement, cultivation, and the Book of Genesis. What their plea? Their mountains, their arms, their courage, their alliances. Against all this what can we produce? Why, forsooth, a decision of the King in Council and a clause in the confederacy. How ridiculous for

wise men to rear any edifice of hope upon so slender a foundation. But how are we to act? to give them up? No! We must go to the mountain if the mountain won't come to us. They complain that the capital is too far off: carry it nearer not merely for their sakes but for our own. They complain of our impeachment of their title. Give them a good title: we want *subjects* not *land*. They complain of the quit rents: abolish them. We can't have more of a cat than the skin. A *good* government—a *free* one, I mean—will always command the wealth of its people. Hudson's River ensures us that of Vermont and Vermont ensures us Hudson's River. For Vermont must be fortified all over and vast magazines of military stores must be laid up in Vermont and when anybody presumes to attack us from the eastward we shall know what to do. All this is not enough: you must apply to their feelings. Suppose for instance the legislature should take up the case of Vandyke, Ethan Allen and other of our subjects and make very pointed resolutions of liberating them. Suppose for his [Allen's] services and sufferings a part of Kempe's land should be given him and that part, if any such there be, which eastern gentlemen claim. Apply yourself to Warner's weak side. Bayley is still a considerable man among them. Let splendid acts of justice and generosity induce these people to submit early to our dominion, for prejudices grow stubborn as they grow old. This business, my dear sir, hath long pressed upon my mind with a weight and impression which I cannot describe. It is under heaven the great thing needful to us; and though I laugh whenever Vermont is named yet I could almost use the poetical language intended for another occasion and say 'tis laughter swelled with bursting sighs.'"¹

To move New York's seat of government nearer to Vermont, to confirm the New Hampshire titles, to abolish the quit rents, to attempt to secure the release of Ethan Allen as a prisoner of war and to enrich him by the gift of a part of John Tabor Kempe's forfeited lands, to win the affections and support of Seth Warner and Jacob Bayley, made a magnificent programme; but it was offered too late in the day and it presented

¹ 3 *Gov. & Coun.*, pp. 291-292.

too violent a change of front on the part of New York to be of use.

Full of suspicion of anything in the nature of compromise offered by New York, prejudiced against influential citizens of that State to the extent of being pleased to have such a person as General Horatio Gates supersede General Philip Schuyler as commander of the Northern Department, the majority of the people of Vermont had passed beyond the stage where adjustment was practicable. The unpleasant effect produced by Governor Clinton's proclamation of February 23 made a bad situation worse. Yet, though the time had passed in which a plan such as that sketched by Gouverneur Morris might have been available, the diagnosis on which he based his prescription was so obviously sound that it should have made an impression. But Morris and Governor Clinton were men of opposite schools of political thought, and the latter—patriot and upright citizen though he was—seldom had it in him to take the broadest view in politics, or to admit that he might have been mistaken. Perhaps, also, he was too much of a democrat to doubt that the will of the people of New York was the voice of God. At the same time we cannot, with our knowledge of American history, dismiss with contempt the convictions of George Clinton, who, in spite of his faults, proved to be enough of a leader to command a large electoral vote at the time of Washington's re-election in 1792, and who served as Vice-President of the United States under Jefferson and Madison. Ere many years had passed the good Republicans of Windsor were drinking to his health on the Fourth of July.

The latest record of the Council of Safety at its Bennington headquarters bears date March 9, 1778. On that day Chittenden recorded that but few of the Council were present. Most of them were probably at their homes making preparations for the coming events at Windsor. Chittenden himself reached Windsor by March 12, for on that day at Windsor he issued the final orders of the Council of Safety. Here he found himself surrounded by the newly elected town representatives ready to organize Vermont's first Assembly and to participate in the canvass of the votes for Governor, Lieutenant-Governor,

Councillors, and State Treasurer. His announcement on behalf of the old Council of Safety shows by the wording the realization that the authority of Vermont's provisional government was vanishing before the rising sun of a new and permanent order. It was rather the prologue for a new act in Vermont's drama than an epilogue to what had gone before. Dated "State of Vermont, In Council, Windsor, 12 March, 1778," the announcement is as follows:

"This Council do recommend to the Several gentlemen appointed by the freemen of the Several Towns within this State to represent them in General Assembly, to Assemble at the Town House in this place immediately & to form a house of Assembly by choosing a Speaker & Clerk, and make Report of your proceedings hereon as soon as may be to this Council.

By order of Council

Thos. Chittenden, P."

In recommending that the Assembly, when organized, should report to the old Council of Safety the announcement was strictly in accord with a provision of the Constitution which prescribed that the first committee to canvass votes for State officers and councillors should be chosen out of members of the original Council and the newly elected Assembly. It was thus necessary for the Council of Safety to remain in existence not only until after the Assembly had organized but until committeemen chosen from the Assembly had met with committeemen chosen from the Council of Safety and together determined the results of the State election.

Following directly upon the warning to the assemblymen to convene came the very last of the recorded orders of the old Council of Safety. This consisted of the appointment of a sheriff—perhaps in modern parlance more properly a sergeant-at-arms—to attend the Assembly session. Since the appointment fell to Captain John Benjamin, of Windsor, who thus became the very first civil officer to hold office in Vermont under the permanent State government, we give his letter of appointment in full:

State of Vermont. In Council, Windsor, 12 March, 1778.

To John Benjamin, Gentleman:

Whereas a number of Inhabitants of this State are now met together in this place, appointed by the freemen of the several Towns within the Same in order to form a house of Assembly; and

Whereas it is found Necessary that some person be appointed to act in the Capacity of a Sheriff, you are therefore hereby appointed, authorized and impowered in the Capacity of Sheriff during the Session of this present Assembly (unless sooner discharged) and to subject yourself to such rules and orders as you shall from time to time receive from this or a future Council of this State, for which this shall be your Sufficient Warrant.

By order of Council,

Thos. Chittenden Pr^t

Attest: Joseph Fay, Sec^y

From the standpoint of State politics the choice of John Benjamin for this honor was well enough. He had a military title, was something of a soldier, lived at the place where the official duties of his civil position were mainly to be performed, and, so far as has been discovered, had become a consistent member of the New State party. Locally, his standing was less than that of several of his fellow townsmen, his character was far from exemplary, and though his commissions as a militia captain and a State sheriff must have had the effect of exalting him above the rank and file, there is nothing to show that his personal reputation was such as to win respect or that his selection for honors strengthened the New State in the esteem of the better sort of citizens. He was, however, in the good graces of those in State authority, was presently appointed by the elected Council as sheriff for the newly erected County of Cumberland, and, after he had moved away from Windsor, served for one year as the town representative of Bethel. Perhaps, by virtue of his appointment by the Council of Safety, he had the distinction of calling to order the first Assembly of the State of Vermont on Thursday, March 12, 1778, and presiding until a Speaker had been chosen. On this point the record shows nothing.

The journal of the first Assembly of the State of Vermont was included in that invaluable collection of historical matter compiled by William Slade, published by him in 1823 and known to students of Vermont History as Slade's *Vermont State Papers*. Beginning at page 257 of Slade the record shows the Assembly organized, the choice of Captain Joseph Bowker as speaker and the appointment of Major Thomas Chandler as clerk. Next, the Reverend Peter Powers, of Newbury, preached the election sermon. Following the sermon came the choice of the committee of twelve to receive, sort, and count the votes for governor, deputy governor, treasurer, and twelve councillors. Every member of this canvassing committee had a title prefixed to his name and each side of the State had six members, viz., from the west side of the Green Mountains—Colonel Thomas Chittenden, Colonel Timothy Brownson, Major Jeremiah Clark, Captain Joseph Bowker, Captain Ira Allen, and Doctor Jonas Fay; from the east side of the Green Mountains—Colonel Joseph Marsh, Colonel Peter Olcott, Colonel Jacob Kent, Major Thomas Chandler, Doctor Paul Spooner, and Deacon Benjamin Emmons.¹

Since under the Constitution the personnel of the committee had to be made up from the old Council of Safety and the newly elected assemblyman, Mr. E. P. Walton, drew from the committee's membership certain deductions as to the membership of the Council of Safety.² He thought that because Jeremiah Clark and Timothy Brownson did not appear to have been assemblymen, they must have been members of the old Council of Safety. The difficulty is not in Mr. Walton's reasoning, but in his assumption that these two men had not been elected to the Assembly, and he based his assumption on the fact that they had been elected to other offices, to wit, as councillors, at the March election. Captain Joseph Bowker had been elected to both these offices at the same election. So had Colonel Peter Olcott and Thomas Murdock, of Norwich. Why may not Clark and Brownson have been favored with double honors, also? No list of the names of the assemblymen was recorded. Nobody appears in the Assembly journal's record as representing Timothy Brownson's town of Sunder-

¹ Slade's *Vt. State Papers*, p. 257.

² 8 *Gov. & Coun.*, p. 453, note.

land. No person appears as representing Jeremiah Clark's town of Shaftsbury when the town was entitled to two assemblymen.¹

The canvassing committee reported the following results: Governor, Thomas Chittenden; State treasurer, Ira Allen; councillors, Joseph Bowker, Jacob Bayley, Jonas Fay, Timothy Brownson, Peter Olcott, Paul Spooner, Benjamin Carpenter, Jeremiah Clark, Ira Allen, Thomas Murdock, Benjamin Emmons, and one other. The twelfth councillor, according to Ira Allen and William Slade, was John Throop, of Pomfret. Mr. E. P. Walton has conclusively proved that Throop, if elected, did not serve. The place was filled by Moses Robinson, of Bennington. Whether, as Mr. Walton believed, the original record of the election was erroneous and the name of Throop filled in on the strength of Ira Allen's faulty memory, has not been proved. It is possible either that a recount showed Robinson elected over Throop, or that the latter having been elected declined to serve, and that Robinson was appointed to fill the vacancy. With Robinson as a member of the Council, the personnel of that body included six men from the east side of the Mountains and six from the west.

The original canvass having shown nobody elected lieutenant-governor or deputy governor by a majority of votes, the Assembly, by ballot, chose Joseph Marsh for the place. Directly after this election, however, "there was brought in fifteen votes for Col. Marsh, which, if they had come before, he would have been chosen by a majority of the freemen at large."²

¹ E. P. Walton credits both Gideon Olin and John Burnham as Shaftsbury's representatives in the Legislature of March, 1778 (*Vt. Hist. Soc. Proc.*, 1878, p. 35), but does not state his authority. Judge Fish states that Burnham was then a resident of Bennington (5 Crockett's *History of Vt.*, p. 218).

² Slade's *Vt. State Papers*, p. 257.

CHAPTER XLV

THE FIRST VERMONT LEGISLATURE

No list of the men composing Vermont's first General Assembly was entered on the records. From the minutes which, happily, were preserved and which were printed in Slade's *State Papers*, it is possible to discover the names of some of the members. Mr. E. P. Walton, in a paper read by him before the Vermont Historical Society on October 15, 1878, has given the results of his research as to membership in Vermont's first legislature. Deming's *Catalogue of Vermont Officers* and Comstock's revision of that work list, by towns, many men as having been representatives at the session of March, 1778, and at the adjourned session in June of that year. If, however, one sticks to the legislative minutes it is difficult to identify positively more than thirty-seven members acting as Vermont's first legislature and present at any part of the session at Windsor from March 12 to the adjournment on March 26, 1778. Even with an attendance of thirty-seven the town of Windsor must have been put to it to find suitable lodgings for so many assemblymen after providing accommodations for the governor, the lieutenant-governor, and the members of the Council. The "public house," now known as the Old Constitution House, the meeting-house, the schoolhouse, the grist-mill, and most of the near-by dwellings of a town that could not then show a real village, must have been needed to shelter so large a gathering of visitors during that fortnight in March.¹

From the legislative minutes we may infer that the following twenty-six town representatives from the east side of the Green Mountains appeared: Alexander Harvey, of Barnet, Captain John Coffein, of Cavendish, Major Thomas Chandler, junior, of Chester, Doctor Thomas Amsden of Fulham (Dum-

¹ The Council had the use of a room at Elijah West's. A room or rooms at Josiah Hawley's accommodated "gentlemen of liberal education." In October the Council had quarters at Hawley's (39 *Vt. State Papers* MS., pp. 10-12, 16-17).

merston), Ensign Edward Harris, of Halifax, Captain William Gallup, of Hertford (Hartland), Edward Aikin, of Kent (Londonderry), Doctor Samuel King, of Marlboro, Benjamin Baldwin, of Mooretown (Bradford), John G. Bailey and Colonel Jacob Kent, of Newbury, Jacob Burton, of Norwich, John Winchester Dana, of Pomfret, Moses Johnson, of Putney, Doctor Reuben Jones and Joshua Webb, of Rockingham, Daniel Gilbert, of Sharon, Colonel John Barrett, of Springfield, Joshua Tucker, of Strafford, Timothy Bartholomew, of Thetford, Major Samuel Fletcher, of Townshend, Nathaniel Robinson, of Westminster, Elijah Alvord, of Wilmington, Thomas Cooper and Captain Ebenezer Curtis, of Windsor, and Lieutenant Joseph Safford, of Woodstock. From the west side of the Green Mountains came the following eleven: Nathan Clark and Captain John Fassett, of Bennington, John Smith, of Clarendon, Captain Thomas Rowley, of Danby, Cephas Kent, of Dorset, Lieutenant Gideon Ormsby, of Manchester, Thomas Tuttle, of Neshobe (Brandon), Captain Jonathan Fassett, of Pittsford, Lieutenant Thomas Jewett, of Pownal, Captain Joseph Bowker, of Rutland, and Charles Brewster, of Timmouth. From the west-side members we must drop Captain Bowker, who, after he had been chosen Speaker, was found to have been elected one of the Council, and from the east-side members we must detach Major Chandler, who was chosen as Secretary of State on March 13. On the withdrawal of these two there remained but thirty-five identified members, of whom the east-side members were in an overwhelming majority.¹ That there may have been present a few other assemblymen whose part in the proceedings of the first session was too slight to have brought their names into the record is not impossible.

After choosing Nathan Clark and Benjamin Baldwin to succeed Captain Bowker and Major Chandler as Speaker and

¹ It is not improbable that Shaftsbury and Sunderland may have elected Jeremiah Clark and Gideon Brownson as their respective town representatives, but were without representation in the Assembly because these two men sat in the Council. Norwich is said to have chosen as its representatives Peter Olcott and Thomas Murdock, who also were of the Council. If this be the fact, it is not easy to understand how Jacob Burton should have been admitted as the Norwich representative.

Clerk, respectively, the legislature proceeded expeditiously with its work. Serious as were its problems and responsibilities, there was one matter that overshadowed all others. This arose on the second day, when "a committee from the east side of Connecticut River" waited upon the Assembly with a petition that sixteen New Hampshire towns be granted admission to the new State of Vermont. The fact that such an application had been foreseen did not diminish its gravity nor find the legislature ready to decide. Four members of the House—Colonel John Barrett, of Springfield, Captain John Fassett, of Bennington, Doctor Reuben Jones, of Rockingham, and Captain Ebenezer Curtis, of Windsor—were appointed to join with three members of the Council—Doctor Jonas Fay, Captain Ira Allen, and Colonel Peter Olcott—as a committee "to wait on" the committee for the New Hampshire towns. In personnel Vermont's committee had the appearance of being four to three in favor of admitting the New Hampshire towns, but actually the appointing power had been so exercised that out of the seven men Colonel Olcott was perhaps the sole supporter of the proposal to enlarge Vermont's territory. Barrett, Jones, and Curtis, from their previous intimacy with Fay and Allen, were presumably of one mind with the men from the west side of the Green Mountains. What sort of a report the committee of seven made to the House does not appear on the minutes.¹ We find, however, that on March 18 the legislature, unwilling to take upon itself the responsibility of decision, voted a referendum in the following terms:

"Voted, that the proposals and preliminaries exhibited to this House by a committee representing a number of towns on the New-Hampshire Grants, east of Connecticut River, relative to forming a union between said Grants and this State, be laid before the people of this State, at large, for their consideration and determination."²

¹ Ira Allen stated that the committee's report was adverse and that the House voted to accept the report, but that on the threatened withdrawal of several assemblymen and councillors from further association with Vermont in case the report was accepted, the House decided on a referendum (1 *Gov. & Coun.*, p. 428).

² Slade's *State Papers*, p. 261.

At this session of Vermont's first legislature were created Vermont's two first counties, viz., Bennington County on the west side of the Green Mountains and Cumberland County¹ on the east. The legislative bills for these two enactments emanated from the Council; and it is a curious circumstance that it remained for the Assembly to detect a danger in the Council's draft of the eastern boundary of Cumberland County. The bill, as originally drawn, specified that boundary as "New Hampshire west line": the legislature voted to substitute the words "the west bank of Connecticut River." There had been and still was so much uncertainty regarding the western limit of New Hampshire's jurisdiction that the wisdom of the Assembly's amendment was obvious.

Not one of the many laws enacted at this initial session seems to have been printed or permanently preserved. The vote in favor of having such of the proceedings "as are necessary for the inhabitants to know" "copied" by committees appointed for the purpose² indicates that manuscript sheets were relied upon to inform the people of the statutes governing them. Mr. Slade, in a foot-note on page 287 of his *State Papers*, asserts that the laws of 1778, although intended to be temporary provisions, were printed in pamphlet form. No copy containing the acts of the March or June session has come to light and the writer thinks that the Assembly's vote last cited indicates that Mr. Slade was probably in error—at least so far as the statutes passed by the first legislature are concerned.

Among the more active participants in the work of the first Assembly was Ebenezer Curtis, of Windsor. He was a member of several important committees, besides being the first clerk *pro tem*. Thomas Cooper, whose education seems to have been superior to that of Curtis, took but a negligible part. Of other Windsor names appearing in the minutes, Ebenezer Hoisington is recorded as having had business with the legislature, and Lieutenant Elisha Hawley secured an appropriation in payment of fifteen days' service at Ticonderoga.

¹ The east side county was originally given the sententious name of Unity. Happily, in five days it was changed to Cumberland.

² Slade's *State Papers*, p. 267.

Hezekiah Thomson, church deacon and former tavern keeper, received from the legislature an official plum in the form of an appointment as one of the five judges of the Shire of Westminster; but the first Windsor beneficiary by legislative order was Gideon Cowles, who was chosen "to attend this House as a Constable." Another Windsor citizen to be honored by a new office was John Benjamin, who received from the Council a commission as sheriff of the newly erected County of Cumberland. Watts Hubbard, junior, who had been imprisoned for some time on a charge of "enemical" conduct, petitioned the legislature for release. This was denied him. By the Council minutes it appears that he was admitted to bail on the bond of Watts Hubbard, senior, and Zedekiah Stone. Previously a bail bond in his behalf, executed by Zedekiah Stone, Watts Hubbard, senior, and Alexander Parmelee, had been deposited with Captain William Dean, as chairman of Windsor's Committee of Safety. The new bond was conditioned on the younger Hubbard's appearance "before the Special Court of the half shire of Westminster." His subsequent trial, to which in later years he referred in terms of indignation, was one of the earliest judicial proceedings under Vermont's State government and illustrated the harsh, summary, and unjust methods of those tempestuous days.

Each day in the March session the Assembly took a mid-day recess to two o'clock in the afternoon, except on the day that the referendum was voted. Probably on that morning the sitting had been longer than usual, and hence a recess to 3 P. M. was voted. The morning sittings began normally at eight o'clock, but on the last day, when there was but one sitting and when everybody was anxious for adjournment, the Assembly convened at 6 A. M. With the exception of Saturday, March 21, all the sittings were at Windsor's meeting-house. On the morning of that day, immediately on coming to order, the Assembly voted "to adjourn to Mr. Coles." This meant, probably, the house of the legislature's constable, Gideon Cowles, situated on the southwest corner at the junction of the town street and the road to the west parish or what is now the southwest corner of Main and State Streets in Windsor village. This was Cowles's property until a year later,

when, on moving away, he sold the premises to the Reverend David Tullar, the new pastor of the Congregational Church. Both the morning and afternoon sittings of the legislature on that Saturday took place at Cowles's, and thus gave time to sweep and clean the meeting-house for Sunday's worship, and brought the legislature for a day to a pleasant position diagonally across the road from the Old Constitution House and its tempting wares.

The Assembly's minutes make no mention of the receipt of a remonstrance from the New York adherents in southeastern Vermont. While the legislature was sitting at Windsor committeemen from towns loyal to New York and from some of the towns represented in Vermont's Assembly had gathered at Brattleborough. B. H. Hall, at page 311 of his *History of Eastern Vermont*, states that on March 4 a committee which had been appointed at the Brattleborough town meeting had issued invitations to other towns to send committees to meet in conference in Brattleborough on the 18th at the house of Captain John Sergeant. Mr. Hall adds: "Delegates from several towns assembled at the appointed time, but of their proceedings no record has been preserved." In this particular he may have been misled by the misplacing of an important document in the George Clinton Papers. That document, having been undated, was accidentally filed as No. 3514 of the Clinton Papers, among those of the year 1780. In reality it bears internal evidence of being a remonstrance prepared during the period of the first legislative session by the committeemen who met at Brattleboro on March 18, 1778, is addressed "To the gentlemen convened at Windsor, under the Stile of the General Assembly of the State of Vermont," is subscribed by fifteen men of southeastern Vermont and sets forth in detail, with apparent sincerity and with considerable force, the protest of the signers against secession from New York and against the expediency of attempting to establish a new State. It may be found in the sixth volume of the printed edition of the *Public Papers of George Clinton*, at pages 607 to 613.

Addressed, as above described, to Vermont's Assembly, the remonstrance recites that it is made in behalf of the towns of Guilford, Brattleborough, Putney, New Fane, Hinsdale, Rock-

ingham, Westminster, and Weathersfield. There appears to have been left a space for the name of one other town—perhaps Springfield, whose leading citizen, Simon Stevens, was at this time wavering between loyalty to New York and the pressure of the New Staters. It next recites the receipt of “a Pamphlet entitled ‘the Constitution of the State of Vermont’ and Directions, from the Gentlemen called the Council of Safety for the said State, for holding Elections for the governor &c.” It then proceeds to enter a protest against setting up “at present” a government independent of New York and against the many unhappy consequences which, as the signers feared, would flow “from breaking the Bands of Civil Society in a Crisis so important.”

The signers record that they decline participation in the erection of a new government, and they placed their decision on eleven numbered and specified grounds: First, the adjudication of the King in Council on July 20, 1764, fixing the west bank of the Connecticut River as the eastern boundary of the Province of New York; second, the fact that since such adjudication the district of the New Hampshire Grants had been represented in the Provincial Congress and conventions of New York until the Declaration of Independence; third, that since the Declaration of Independence the district had been represented in the convention of the State of New York; fourth, that the resolutions of the Continental Congress of June 30, 1777, recognized but thirteen separate States, refused to countenance the dismemberment of any, dismissed the petition for statehood emanating from the Westminster Convention of January, 1777, and repudiated the implications contained in Thomas Young’s letter to the people of Vermont; fifth, that already the baneful example of secession had led certain towns on the east side of Connecticut River to forsake their proper allegiance to the State of New Hampshire; sixth, that the Articles of Confederation discountenanced the breaking up of any State in the manner proposed by Vermont; seventh, that although the New Hampshire Grants had grievances against the royal governors of the Province of New York, it was not to be expected that the free State of New York, with a government derived from the people, would be oppressive; wit-

ness the late proclamation of Governor Clinton and the resolutions of New York's State legislature; eighth, that the State capital of New York would doubtless be moved further north and made more accessible to the inhabitants of the Grants; ninth, that since there was division of opinion among the citizens of the Grants, and since Congress had not approved Vermont's independence, the dispute would be "extremely detrimental to the common Cause of America"; tenth, that the poverty of the Grants was an obstacle to the support of a separate State government, and at the same time paying a fair proportion of the cost of the war; eleventh, that the inhabitants lacked men capable of conducting a separate State government because "very few gentlemen of learning & abilities equal to the task have yet chosen to remove to so uncultivated a part of the country."

To the foregoing reasons the remonstrance added as a conclusion that the secession from New York was impolitic and dangerous, tending to weaken the authority of Congress and to disunite the friends of America and stimulating to a spirit of sedition. Altogether, the document is conspicuously well worded for a locally composed public paper of the time. It put the case for loyalty to New York as forcibly as any written argument that has been preserved. It is a fair guess that its draftsman was Micah Townsend, who appears as one of the Brattleborough signers. The other committeemen from that town signing the remonstrance were Benjamin Butterfield, Israel Smith, James Blakeslee, and Samuel Knight. Hinsdale's signers were Eleazar Paterson and Gad Wait; Guilford's, Thomas Cutler and Timothy Root; Newfane's, Matthew Martin; Rockingham's, Asher Evans; Putney's, Joshua Hide; Westminster's, Benjamin Burt and John Norton; Weathersfield's, Hilkiiah Grout. However strong their plea and however substantial their personal characters, their protest was too late to alter the situation, even if the paper on which it was written ever came to the eyes of the members of Vermont's legislature at Windsor.¹

¹ A "Protest from Hinsdale, Brattleborough, &c.," dated April 15th, was laid before the second legislature of Vermont at Windsor on October 13. That this may have been the paper summarized above is indicated by a circular letter sent

More emphatically though less elegantly the same sort of reasoning had been uttered orally over and over again in taverns and at town meetings and had been rejected. The secessionists were beyond converting. But annoying to them as may have been the aloofness and hostility of the towns in the southeast corner of Vermont, a greater embarrassment lay in the popularity of the New State among their near neighbors in the New Hampshire towns along the Connecticut River. It was easy to foresee that desertions from New Hampshire to Vermont might make an enemy of the older State which hitherto had been friendly.

Mindful of the advice and instructions written by Thomas Young to the people of Vermont the year before, the Council ended its labors at the legislative session at Windsor by passing the following vote:

"Voted, that the Hon^{ble} Joseph Marsh Esq^r. & the Hon^{ble} Jonas Fay Esq^r. be Delegates to Wait on the Hon^{ble} Continental Congress, to announce to that Hon^{ble} body the formation of this State. Likewise voted to invite Col^o Elisha Payne¹ to accompany the above persons for the purposes above written." ²

The session closed with a record of many statutes passed, including, probably, one prescribing the form of municipal government for the individual towns. Two counties had been erected, a military organization, four courts of jurisdiction unspecified except as to locality, and two "courts of confiscation" to deal with estates of Loyalists. The State was not only formed but it was furnished with public officials and more or less definite rules for their procedure in the executive, legislative, and judicial departments. All of this had been accomplished

to the various towns by Thomas Cutler, chairman, under date of April 15, 1778, and given in full in volume 3 of the *Clinton Papers*, at pages 171 to 172.

¹ Colonel Elisha Payne, of New Hampshire, was then active in consummating the admission of some of the New Hampshire towns into the new State of Vermont.

² *1 Gov. & Coun.*, p. 250. The delegates did not go to Philadelphia because of their apprehension, as Joseph Marsh asserted, "that Congress were desirous not to be troubled with the matter at present" (*8 Gov. & Coun.*, p. 399).

at Windsor. Thus, in addition to the honor of having been the town in which the State was named, in which its Constitution was established, and in which its provisional government was set up, Windsor now had the honor of being the town in which the permanent form of constitutional government was inaugurated. Although the creation of Vermont dated back to the eighth day of July, 1777, the view of the Council, as expressed in the resolution last quoted, was that the "formation" of the State was completed in March, 1778.

CHAPTER XLVI

PERMANENT STATE GOVERNMENT

FOR a summary of some of the previous chapters and what next follows let us observe a passage from the *History of the People of the United States*, by James Bach McMaster. It is not wholly accurate nor is it over-friendly, but it is the language of an eminent American historian, and it gives what might be termed an outsider's view of what took place in the way of setting up the Republic of Vermont and maintaining it. This is the passage:

“In the darkest hour of the war, the men of the southern counties of what was then known as the New Hampshire Grants, had risen up, renounced their allegiance, asserted their independence, chosen a Governor and Assembly, formed a State and called it by the name of ‘New Connecticut, alias Vermont.’ The independence of New Connecticut was soon acknowledged by New Hampshire. But many settlers had come in from New York, had made their clearings, laid out farms, built villages and towns, and had paid taxes to New York. The great State, proud of so prosperous a community, steadfastly refused to give up jurisdiction over it; and in a little while the peace of New Connecticut was disturbed by the contentions of two parties. To one the name of Yorkers was given; the other assumed that of Vermonters. For seven years their treatment of each other would have delighted two Indian tribes on the war-path. Their history during this time is a shameful record of wanton attacks and reprisals, of ambuscades laid in the dead of night, of murder, arson, and bloodshed.”¹

We cannot let this go unchallenged. It was not a “southern counties” uprising, but a pretty general movement on the settled portion of the New Hampshire Grants west of the

¹ McMaster's *History of the United States*, vol. I, p. 347.

Connecticut River. The name "New Connecticut," momentarily used and then forgotten, gave place to "Vermont" before the State was formed. Not before but after the State's creation came the election of State officers. The settlers who chose the side of loyalty to New York were not mainly those who had moved to the New Hampshire Grants from New York. There were comparatively few settlers from outside the New England Colonies. Both in the period before and in the years following the establishment of Vermont's State government there was, on the part of the New Staters, systematic coercion of the men whose sympathies were with New York, but at no time did acts of persecution or retaliation take on quite so bloody and horrible an aspect as to resemble Indian warfare. If the homicides at Westminster be pointed out as exceptions, it is well to remember that, whatever label was affixed to the "Westminster massacre" after the event, the affray was an isolated incident which stands practically by itself, and was nothing more than the outbreak of poverty-stricken debtors. In its proximate cause it was neither a part of the secession from New York nor the rebellion against the Crown.

Nor can we pass as strictly correct the statement that "villages and towns" had been "built" by New York sympathizers or anybody else on the New Hampshire Grants at this period. Townships or what we of New England call "towns" had been granted in profusion. In many of them were settlers. In some of the townships were favored localities where the farmhouses were comparatively near together. Those sites were, in some instances, to become villages; but at the period of which we write the instances were few in which "hamlet" was not more appropriate than the word "village" to describe any cluster of homes in Vermont. That New York was "proud of so prosperous a community" as Vermont hardly squares with the straitened circumstances of almost all of Vermont's inhabitants, although one can well understand that New York was loath to give up an area which gave promise of commercial and agricultural value as settlement and development progressed.

The setting up of independent State government at Windsor

was only a milestone in what was almost a civil war between New York and the New Hampshire Grants. Statehood for Vermont proved to be no short cut to peace and good order. The interstate quarrel continued with varying degrees of violence throughout the period of the American Revolution and thereafter. On Vermont's side the case was handled with great ingenuity and energy. Errors in practical judgment sometimes occurred. The methods in some instances fell short of recognized standards. The popular histories of Vermont would lead one to believe that Vermont was continuously sinned against and always in the right, just as the popular histories of the United States would make America appear throughout the Revolution invariably on the side of righteousness and honor. A great teacher once wrote: "The people of the United States have many virtues, but all nations have their failings, and there are many passages in the history of every country which it is painful for its citizens to contemplate."¹ So with the people of Vermont: they have exhibited themselves as possessed of many virtues, but there are passages in their history which show neither high character nor wisdom nor sound morals.

Turning from these generalizations to the progress of events in Windsor we find that Windsor's first town meeting to be held under the independent Republic of Vermont took place at the meeting-house on Thursday, April 9, 1778. The warning for the meeting has not been preserved, but presumably due notice of the meeting was given pursuant to a statute or resolution passed by the Vermont legislature at the March session and made applicable to each municipality within the State.

Judging by the great number of offices filled by the votes of the townsmen, the Windsor meeting was well attended. As on previous occasions, Captain William Dean was the Moderator. Ebenezer Curtis succeeded himself as Town Clerk. No less than five Selectmen were elected, viz., Lieutenant Thomas Cooper the first, Major Ebenezer Wood the second, Ebenezer Curtis the third, Deacon Hezekiah Thomson the fourth, and Jacob Hastings the fifth. Ensign Steel Smith be-

¹ John Chipman Gray, *Introduction to Restraints on Alienation*.

came Town Treasurer, while Lieutenant Elisha Hawley and Joel Ely, junior, were chosen Constables. At this meeting there were also elected four Grand Jurors, six Highway Surveyors, four Tythingmen, four "Hog-howards" or "Hog-reeves," four Fence Viewers, five Listers, two Collectors, one Sealer of Weights, one Sealer of Measures, two "Deer-reeves," two Branders, and two Pound-Keepers. The elections to the offices of Selectman, Town Clerk, Town Treasurer, and Grand Juror seem to have been made by ballot. Nothing appears as to the method of selection in other cases. The town voted "that hogs shall be shut up the ensuing year," that "horses should not run at large upon the Common,"¹ that a previous vote² to alter the place of the ferry be reconsidered, and that "the Preliminaries of Confederation between this and the Other Side of the River is acceptable to the Town." Windsor thus went on record as favoring the proposed union with the neighboring New Hampshire towns.

Among new names to gain currency through the distinction of elevation to local office one notes in the record of the meeting, beside Major Wood's, the names of Thomas Wilson as Highway Surveyor, John Adams and Silas Bannister as Hog-howards, Joseph Barrett as both Hog-howard and Tythingman, Samuel Stow Savage and Jonathan Burt as Listers, and Jerahmeel Cummins as a Brander. Younger members of the Smith, Hoisington, Smead, and Ely families had come to man's estate and were recognized as worthy of the suffrages of their neighbors. Generally the elders were not wholly put aside. The discrimination against the Stones, the Hubbards, and Alexander Parmelee is as understandable as it was marked. They and their families had not yet purged themselves of New York allegiance and had not become warm New Staters.

The case of Watts Hubbard, junior, had been for some time a matter of notoriety. At least as early as the summer of 1777

¹ By the word "Common" was meant all lands within the township not then allotted to individual owners. It did not refer to one particular parcel.

² The vote referred to was passed March 3, 1778. Colonel Jonathan Chase, of Cornish, as owner of the Cornish-Windsor ferry, had been greatly annoyed by Vermont interference with his business. The reconsideration voted on April 9 indicated a realization that it would be well for Vermont to cultivate good relations with the people of New Hampshire.

the case was mentioned by Thomas Chittenden, who transmitted "evidence" therein to General Benjamin Lincoln. Unlike Andrew Naughton, who was sent from Windsor to the Westminster jail and subsequently went to Canada; also unlike Titus Simonds and Zadoek Wright, of Hertford (Hartland), who joined Colonel John Peters's corps of Loyalists, Watts Hubbard, junior, stayed at Windsor, more or less of a prisoner—some of the time under bail bonds furnished by his father with the help of Captain Zedekiah Stone or Alexander Parmelee—and suffered the seizure and confiscation of his personal property to the tune of seventy-eight pounds, fifteen shillings, and sixpence.¹ The nature of the charge or charges against him is not clear. That the case had a political aspect is to be inferred from the fact that Chittenden had reported it to General Lincoln and that the subsequent trial took place either before one of the "Special Courts" or the "Courts of Confiscation" appointed at the March session of the legislature. These courts and the "Commissioners' Courts," as appears by letters preserved among the Clinton Papers, assumed jurisdiction not only in dealing with Loyalists but in administering discipline to men whose only misbehavior seemed to have consisted of adherence to the government of the State of New York.² In some instances the culprits were denied a trial by jury.³

Hubbard left an interesting although not a contemporaneous account of his own trial. When Vermont's first Council of Censors to be appointed under the Constitution was engaged during the summer of 1785 in reviewing the operations of the State government for the first septenary then just ended, he addressed to the censors a memorial calling attention to the procedure of the tribunal which had pronounced judgment upon him in the spring of 1778. His communication was as follows:

"To the Hon^{ble} Council of Censors for the State of Vermont now convened at Norwich the Petition and Remonstrance of Watts Hubbard, Jun. Sheweth

¹ Memorandum of Ebenezer Hoisington as Commissioner of Sequestration. MS. in Vt. Secretary of State's office.

² *Public Papers of George Clinton*, vol. 3, pp. 552-553, 564.

³ *Id.*, p. 550.

"That the said Watts without just cause was arrested by virtue of an illegal and unconstitutional Precept and brought before an unconstitutional Court in the Town of Windsor in the State of Vermont on the 19th day of May, 1778, at which time he was subjected to a trial by a jury to which he was denied the Privilege of making any Challenge, without the Liberty of producing a single Witness to make his Innocence appear or of defending himself by himself or Counsel. The result of which was a Judg^t. for Imprisonment & confiscation of Property, which proceedings though in this Instance they affect an individual only, in their tendency affect every Citizen of the State and are a flagrant violation of the Constitution.

"Wherefore your Petitioner prays for an examination into the same & that such a public observation may be made thereon by the said Council as shall be adjudged most suitable and as in duty bound shall ever pray.

Norwich, 3d June, 1785

Watts Hubbard Jun^r" ¹

Although Hubbard's bail bond of March 25, 1778, had required his appearance before the Special Court for the half Shire of Westminster (Judges John Shepherdson, Stephen Tilden, Hubbell Wells, Hezekiah Thomson, and Nathaniel Robinson) it is not entirely clear whether that court or the Court of Confiscation for Cumberland County, composed of Lieutenant Governor Marsh and six east-side members of the Council, is the one by which he was tried. The "Special Courts," however, did have jurisdiction of cases of "enemical Conduct." ²

There is to be found in a subsequent development in Hubbard's case an indication that his offence was merely unwillingness to acknowledge the supremacy of Vermont's authority, for on his application to the Council, in October, 1778, to be relieved of further imprisonment, that body "Resolved that on his making & subscribing a proper acknowledgment & paying all the cost that has arisen on acct. of his former Tryal^s, Guards and imprisonment, & *Taking the Oath of Allegiance to this State*, he be discharged & enjoy all his Estate

¹ Manuscript petition in Vt. Secretary of State's office.

² See reference to Mattison's Case, 1 *Gov. & Coun.*, p. 279.

Except what has already been Taken from him & sold.”¹ He seems to have obtained his release without fully meeting the Council’s conditions. The last entry in reference to his case that is found in the Council’s minutes was made on February 26, 1779, when a “warrant” was given to “John Benjamin Esq^r Sheriff to oblige Watts Hubbard jr. to pay and satisfy the Judgment of Council in October last at Windsor, or Confine him to Certain Limits, & in case he the said Hubbard Break over said Limmits on Conviction thereof before any Justice of the peace to Whip him on the naked back not Exceeding 20 Stripes nor Short of 10 Stripes.”² Doubtless this sort of moral suasion had the effect of making a good Vermonter out of Watts Hubbard junior and inducing him to make a handsome contribution to the State treasury.

The stories of the twentieth century espionage and secret service during the Great War are hardly to be distinguished from some of the methods employed by Vermont’s courts and Council at this period. Under date of April 10, 1778, Governor Chittenden and his Council commissioned Captain Ebenezer Wallace with two assistants to search the woods for enemies, spies, etc., and gave Captain Wallace power to call out the militia with instructions “to administer an oath of secrecy to the persons whom you shall take to your assistance” and to secure any other person or persons “whom you may judge to be Enemies *to this* or the United States of America.”³ There is little wonder that with such powers and discretion given to individuals the situation became very dangerous for any exposed or unprotected New York sympathizer who happened to be possessed of property. Pelatiah Fitch, of Brattleborough, wrote to the Governor of New York that the persons and properties of the friends of New York “are exposed to the lawless Invasion of a rude Rabble or the exasperated Leaders of an imperfect unsettled Government. . . . The authority of Vermont have lately confiscated and sold many valuable Estates and doubtless will continue the practice as long as their necessities require it and they can find the least pretence for so doing.”⁴

¹ 1 *Gov. & Coun.*, pp. 281-282.

² *Id.*, p. 290.

³ 1 *Gov. & Coun.*, p. 251.

⁴ *Papers of George Clinton*, vol. 3, p. 511.

The "necessities" to which Pelatiah Fitch referred were, of course, those incidental to the successful establishment and operation of any government. There must be revenues. The machinery for assessing and collecting taxes had not then been perfected in Vermont. Unpleasant as taxes always are, they were particularly to be dreaded in a region of such little unincumbered wealth as Vermont then possessed. Collection difficulties in the sections where loyalty to New York prevailed were obviously not yet surmountable. It is small wonder, then, that the line of least resistance lay in the direction of plundering the possessions of those who were politically hostile to the new State, either as United Empire Loyalists or as Revolutionary patriots with New York sympathies. Ira Allen wrote comprehensively of Vermont's enemies—the British at the north, the government of New York to the southwest, and "also a number of people of good sense and large property in the southeast part who had leagued with the junto of New York against the new State." As to the matter of taxation, he explained that "it was thought good policy," both because of internal differences and to make the new government popular, "not to lay any taxes on the people but to raise a sufficient revenue out of the property confiscated and the ungranted lands." Thus, as he naïvely pointed out, "those who joined the British were benefactors of the State, as they left their property to support a government they were striving to destroy." Enemy property not only paid the State's expenses but brought the State new friends and citizens who were glad to migrate from other States that were burdened by war taxes into a new jurisdiction where there were no taxes to pay.¹

To strengthen further the powers of the new State, the legislature at its adjourned session in June passed an Act of Banishment against so-called Tories. Under this statute were created what were called the Commissioners' Courts, to impose sentences of exile on alleged British sympathizers, and to appropriate for public use their assets. Vermont had thus promptly organized three separate tribunals, with important functions as revenue collectors: first, the Special Courts which had authority to discipline those who were politically irregu-

¹ Allen's *History of Vt.*, p. 111.

lar, but not meriting banishment; second, the Courts of Confiscation, to seize, condemn, and devote to public use the real estate of those who had gone over to the British; and, third, the Courts of Commissioners with authority to sentence to exile those who under the Banishment Act of June, 1778, were adjudged Tories. For common civil causes between man and man and for criminal proceedings other than prosecutions for political crimes or misdemeanors, the only tribunals seem to have been the Special Courts, until local justices of the peace who were commissioned by the Council—one justice for each town—had been elected under a statute passed in June. Windsor's first Vermont justice of the peace was the town's senior selectman, Thomas Cooper, who thus became entitled to the addition of "Esquire" to his name. Over all these courts both the Council and the Assembly assumed a somewhat uncertain but extensive supervision or appellate jurisdiction. No court except the Courts of Confiscation and the Council left any records.

In addition to being a sort of capital of the new State, the town of Windsor at this time felt the gusts of political controversy on every side. Just across the Connecticut River on the east centered the group of New Hampshire towns that sought annexation to Vermont. To the north and west of Windsor, on the Vermont side, the sentiment for the new State was generally strong, but with this distinction, namely, that the northern neighbors insisted on admitting the New Hampshire towns into Vermont's jurisdiction, while the western interests generally viewed such a plan with disfavor. Immediately to the south was Weathersfield, the northern outpost of New York sentiment, dominated by Hilkiah Grout, in whose tavern at Winchester, New Hampshire, the Windsor proprietors had held their first meeting in the year 1761. Grout possessed the confidence of the New York adherents in the townships to the southward, was a man of character and courage, was inured to the dangers of Indian warfare, and had been mentioned to Governor Clinton as a proper appointee for the office of Sheriff of Cumberland County under New York's government. Pursuant to the unanimous vote of a town meeting held at Brattleborough on May 27, 1778, the mod-

erator wrote to Governor Clinton, "recommending Major Hilkiah Grout, of Weathersfield, in this County, as a Person well attached to the Government of New York State and as the most proper of any in the County that we have heard of who are willing, in this difficult day, to accept of the Sheriff's office."¹ Fortunately for the safety of Major Grout he did not receive an appointment. Five weeks later the chairman of the committees of Hinsdale (Vernon), Guilford, Halifax, Brattleborough, Putney, Westminster, Rockingham, Springfield, and Weathersfield advised Governor Clinton that Major Grout "by his Situation is much exposed to ill-treatment by the New States Men" and "has chosen to decline serving in that office at present. . . ."² Although Major Grout in another capacity presently showed his willingness to face danger, his knowledge of what had befallen Watts Hubbard, junior, was a sufficient warning to avoid unnecessary affronts to the "New States Men" in Windsor.

The prospects of Vermont even then were by no means free from uncertainty. Serviceable as had been several of her officials, there was an absence of outstanding or commanding leadership. With all due respect to those men of Vermont who by long tenure of office finally attained places in Vermont history no other leader of Ethan Allen's force or dominance had then appeared. One can therefore appreciate the rejoicing at Bennington on May 31, 1778, when Ethan Allen, having obtained his release in exchange for the release of an imprisoned British officer, returned to the New Hampshire Grants. Previous to rejoining his Vermont friends, he had been wise enough to call on General Washington and to pay his homages to the Continental Congress. He not only succeeded in impressing Washington with the belief that he was a sincere and ardent American patriot, but received from Congress the honor of a brevet as colonel in recognition of his sufferings as a prisoner of war. Canny politician that he was, he knew full well that the reception accorded him by General Washington and the Congress would exalt him in the eyes of his neighbors at home and would eventually help to prosper the career of the new State. Incidentally, while at Philadelphia, he ob-

¹ *Public Papers of George Clinton*, vol. 3, p. 365.

² *Id.*, pp. 511-512.

tained assurances that Congress did not look with disfavor on Vermont's aspirations, and he appears to have advised Chittenden by letter that "no ill is likely to happen to this State by authority of Congress."¹

On June 9, 1778, Vermont's Council ordered that a "Congratulatory letter to Col^o Ethan Allen on his arrival from Captivity" be drawn. On the same day he was commissioned as public prosecutor (State's attorney) in a criminal case in which one David Redding, a soldier in the Queen's Loyal Rangers, had been charged with "enemical conduct against this and said United States."² So well and enthusiastically did Ethan Allen discharge the duties of that assignment that in two days' time he was able to exhibit for the edification and delight of the countryside a public hanging at Bennington, which considerably enhanced his popularity as a leader and public benefactor.³ So that there might be the fullest enjoyment of the spectacle, the legislature, then in session there, recessed from noon to 5 P. M. on the day of the execution.⁴

¹ Letter addressed by Thomas Chittenden to Lieutenant-Governor Joseph Marsh, Major-General of the Vermont Militia (apparently misdated April 29). *1 Gov. & Coun.*, 257.

² *1 Gov. & Coun.*, pp. 263-264.

³ Of late, under color of effort to give full measure of recognition to Ira Allen's services and in the apparent belief that his place in Vermont's history has been kept in the shade by Ethan Allen's prominence, there has developed a tendency to rate the younger brother as the more consequential character of the two. An early comparison of the two Allens may be found in John Phelps's *Family Memoirs*, in which Ethan is described as a man to whom secrecy was foreign, while Ira is charged with duplicity if not treason. This view of the brothers is highly superficial. If their dealings with British negotiators be the test, there is nothing to choose between the two brothers in the matter of slipperiness. While one can believe that Ethan Allen could not keep a secret, a more striking characteristic of his was that he loved the theatrical or dramatic—especially when he occupied the center of the stage—and he presented such an appearance of genuineness that the casual observer or hearer would not question his sincerity. He was a far more accomplished actor than Ira, who, even when entirely truthful, could not assume a manner of perfect candor. The fact is that, quite apart from an appraisal of the value of their respective services to Vermont, Ethan Allen was a considerably broader personage than Ira Allen, possessed far more courage, far more independence and initiative of thought and action than his brother, and was endowed with qualities of leadership that Ira Allen lacked. Under Ethan's guidance and, to a limited extent, under the guidance of others, Ira was an efficient performer and achieved much; but it is not in the records to rank him above Ethan Allen as a Vermont character.

⁴ Slade's *State Papers*, p. 271.

Ethan Allen must have had reason some two years later, when his own fidelity to the American cause was marked with strange irregularity, to think with mixed feelings of his part in hanging David Redding.

Another matter worthy of Ethan Allen's attention came to a head on the morning of the day that Redding was hanged. A committee appointed the day before to canvass the result of the referendum on the question of admitting New Hampshire towns into union with Vermont reported to the legislature that thirty-seven Vermont towns were favorable to the union and only twelve opposed.¹ Thereupon the legislature immediately passed a bill incorporating as a part of Vermont the sixteen New Hampshire towns that had petitioned for admission and granting a like privilege to any other New Hampshire towns, contiguous to the sixteen, that might similarly apply.² The passage of this act, fraught with far-reaching potentialities, was the feature of the Bennington legislative session. The statute next in importance, although not mentioned in the journal, was Vermont's first Banishment Act to which we have already referred and which provided for the expulsion of the "tories," or "disaffected persons." In the minutes of the fortnight's session it is noticeable that Captain Ebenezer Curtis, of Windsor, was perhaps the busiest of all the assemblymen. He served on no less than twelve committees. For making a copy or copies of Vermont statutes he received on June 18 the sum of two pounds fourteen shillings and sixpence.³ Since Representative Thomas Cooper's name appears not even once, it is therefore not unlikely that he was absent for the whole of the adjourned term.

Under the Banishment Act of 1778, as administered by the Special Courts or Courts of Commissioners, Ethan Allen became a factor. In the month of July he was busy in deporting and exiling victims to the enemy's lines. In vain did some of them claim that they were steadfast American patriots whose only offence was their allegiance to the State of New York instead of to the State of Vermont. Ethan Allen brought as many as eight unhappy culprits of this description from Ben-

¹ Slade's *State Papers*, p. 271.

² *Id.*, pp. 91, 271.

³ 39 *Vt. State Papers MS.*, pp. 10-11.

nington to the fort at Albany under sentence of banishment to the British.¹ Writing to General Gates under date of July 15, 1778, he enthusiastically reported that Vermont had sentenced to banishment no less than seventeen of these "Attrotious Villains."² He seems to have found both General Stark and General Gates complaisant to the point of willingness to assist him in carrying out this sort of business, since he was probably able truthfully to represent it as being performed under color of law. Even General Washington, when the practices had been called to his attention by Governor Clinton, perceived that the matter was too serious for him to decide, and so passed it along to Congress. Washington was humane enough in the meantime to order that the prisoners be held at Fort Arnold "in an easy confinement" rather than turned over to the enemy.³

The success of Ethan Allen in cases of the foregoing description, coupled with the favor which Stark and Gates had showed in abetting him, made in Allen's immediate neighborhood an abundant crop of Vermont sentiment, even in spots where the soil had seemed unpromising. If the time was not yet ripe for him to take the Vermont Banishment Act as a harvesting tool into other parts of Vermont, the tales of his effective work in and around Bennington spread quickly to the east side of the Green Mountains and produced appreciable effect. Having sufficiently banished and proselyted, he next turned his hand to his old trade of manifesto writing.

The proclamation which Governor Clinton had sent to the Grants under date of February 23 had not been answered in print or in writing in a manner satisfactory to Ethan Allen. Accordingly that vigorous debater prepared a paper which he labeled "An Animadversary Address to the Inhabitants of the State of Vermont, with Remarks on a Proclamation, under the hand of his Excellency, George Clinton, Esq., Governor of the State of New York. By Ethan Allen." Dated August 9, 1778, Allen had this document printed in pamphlet form at

¹ 3 *George Clinton Papers*, pp. 552-553.

² MS. letter among *Duane Papers*, N. Y. Hist. Society.

³ *Id.*, pp. 571-572.



ETHAN ALLEN

From the statue at the entrance to the Capitol at Montpelier, Vermont

Hartford.¹ It is one of his breeziest and at the same time one of his most forceful productions. Although Clinton's luckless proclamation had become a mere man of straw for Allen's vigorous knock-down pen, the Vermont chieftain artfully described the proclamation as still a living thing that was calculated to "deceive woods people." Allen, even if he knew but little, knew his "woods people." He reasoned rightly that they would be refreshed and invigorated by his bombast, logic, and humor. He knew that they would look to him as their real leader, if in addition to his public service in displaying hangings and deportations he could also supply his constituents with spicy literature on topics of vital importance. At no stage of his stormy career did Ethan Allen conduct himself with more dash and brilliancy than in the few months after his return from captivity when, on finding his New Hampshire Grants converted into a rickety state surrounded by dangers and with no strong leader in command, he placed himself at the head of things and took personal control.

It is barely possible that Ethan Allen's gaiety of spirits may have roused what little sense of humor Governor Clinton possessed. At all events, there appeared in one of Clinton's letters to James Duane a passage which comes near to levity. Writing Duane under date of September 18, 1778, Governor Clinton, after expressing the fear that the New York legislature might put off until too late an adequate provision for troops and fortifications along the western frontiers, adds this observation:

"I should not be surprised to hear that Gen^l Starke and these Green Mountain Boys claim the whole Western Country by Right of Conquest & if they should take it in their heads to go scouting that way & kill one Tory or Indian it would go far towards establishing their Title." ²

As was natural, New Hampshire took offence at the secession of the sixteen towns that had deserted from New Hamp-

¹ *Thompson's Vermont*, part II, p. 53, and note. The address was distributed the latter part of August, 1778. (*Id.*, p. 107, note.)

² MS. letter among *Duane Papers*, N. Y. Hist. Soc.

shire to Vermont. New Hampshire also took offence at Vermont's having received the deserters. Meshech Weare, president of New Hampshire's Council, addressed letters of complaint to New Hampshire's delegates in the Continental Congress as well as to Governor Chittenden. The eminent New Hampshire official who had been so free but a year before in acknowledging Vermont an independent State when Vermont comprised only seceding portions of New York, now that Vermont had reached out over New Hampshire, changed his tune. What had been sauce for the goose was plainly not sauce for the gander. "A gentleman of great wisdom and virtue," as the learned Doctor Williams describes him,¹ President Meshech Weare now referred to Vermont as "the pretended State of Vermont"² and declined to address Governor Chittenden in "magistratical style."³ He revealed in his letter to Chittenden a glimpse of what Whittier called "Crafty Meshech"; for while explicitly stating the reasons why all law-abiding people ought to deplore the contemplated dismemberment of New Hampshire, he attempted so to distinguish and sympathize with the situation of the New Hampshire Grants west of the Connecticut River as to create the belief that he would once more become friendly to Vermont's ambition for independent statehood if Vermont would agree to let New Hampshire alone. His letters served the double purpose of causing Vermont to hesitate and reflect and giving to a man of Ethan Allen's shrewdness an inkling as to the best and safest play for Vermont next to make.

Although the Vermont histories declare that at this crisis Governor Chittenden called the Vermont Council in session for consultation, and that as a result it was decided to send Ethan Allen as an ambassador to Congress, there is no record whatever of any meeting of the Council at this time. We do know that in the month of September Ethan Allen did start on a trip to Philadelphia, and that he performed his mission with success. He reported afterwards that he undertook the trip "by the desire of his Excellency and at the request of

¹ Williams's *History of Vt.* (1st ed.), p. 243.

² Slade's *Vt. State Papers*, p. 90.

³ *Id.*, p. 91.

several of the Members of the honorable the Council,"¹ but it is quite as reasonable to suppose that Ethan Allen himself suggested the idea of the trip and instructed the Governor and occasional Councillors that for the sake of form it would be well for them to "desire" or "request" him to repair to Philadelphia as Vermont's agent. That Allen took the journey with the authority of the people of Vermont was emphatically denied by Lieutenant-Governor Marsh²—a point which probably was of little concern to Allen or to the Continental Congress.

¹ 1 *Gov. & Coun.*, p. 415.

² 8 *Gov. & Coun.*, p. 399.

CHAPTER XLVII

THE NEW STATE TOTTERS

THE Windsor town records of this critical period contain but few allusions to state or national affairs. The presence of the Governor, the Council, and the Legislature as visitors in town naturally served to remind the inhabitants that local improvements would be in order. With this idea in mind, the town meeting of April 9, 1778, had directed the selectmen to "set out the Burying yard in order to have it fenced"—a modest and proper measure. On several Sundays Asa Burton, a recent Dartmouth graduate who was studying for the ministry with President Wheelock, came to Windsor to preach. On July 7 the town voted a local tax of fourpence upon the pound "to Purchase Town Books and Town waits and measures and pay other Contingent charges." On the same day appeared the earliest sign of the movement which eventually severed Windsor into two townships: "Voted to Divide the Town into two Parishes." Following that decision came an agreement that the six westerly ranges—numbers one to six, inclusive—should be within the West Parish and the remainder within the East.¹ Between the two parishes the public lands of the town were to be equally divided. Later in the same year the town voted to erect two "Public Posts," one in each parish, on which all "Public Notifcations shall be Sett up."

At the July meeting Lieutenant Thomas Cooper, by the votes of his fellow-townsmen, was honored by an election to the office of Justice of the Peace. Although there had been earlier appointments of justices of the peace by the New York government, Cooper's election by popular vote is the first instance of an election to this office on record in the town. There was probably a little local excitement on July 17, when

¹ Later in the year the boundary line was moved easterly to the center of the seventh range, which left each parish with a more nearly equal area. Though there were but eleven ranges, the eleventh, which abutted on the river, was from two to three times the width of any of the others.

Sheriff John Benjamin, with the assistance of a few soldiers detailed by Colonel Joel Marsh, escorted out of Windsor several unnamed "inimical persons" who were taken first to Albany and thence to Bennington.¹ In military matters Windsor was interested from June to September by occasional scouting parties under Captain Steel Smith, acting under the orders of Major Ebenezer Wood.² On September 15, at the first of the "September elections" for which Vermont later became noted, Thomas Cooper, "Esq.," and Ebenezer Curtis were re-elected representatives to the General Assembly.

The 16th day of August, 1778, which was the first anniversary of the Battle of Bennington, marked the first appearance in Vermont of Stephen Jacob, who was destined to become a citizen of Windsor and one of the State's leaders. The day was being observed in Bennington as a holiday. Stephen Jacob and his college classmate, Noah Smith, just graduated at Yale, were at Bennington together. The presence of two young men of such exceptional education was sufficient to cause their impressment into the service of the town as poet and orator respectively for the celebration. Happily, their effusions on this occasion have been preserved and may be found in the first volume of the *Vermont Historical Society's Collections*, at pages 255 to 270. Mr. Jacob paid glowing tribute to Ethan Allen, while Mr. Smith had the tactlessness not only to omit all reference to Vermont's chieftain, but made matters worse by eulogizing Seth Warner and Chittenden. On such a point Ethan Allen could be sensitive, as is indicated by his subsequent ridicule of Noah Smith the following spring.³

The second Vermont State Legislature met at Windsor on October 8, 1778. Towns east of the Connecticut River, having been admitted as a part of Vermont pursuant to the law enacted in June, had participated in the September elections and had elected thirteen town representatives and one councillor. As announced in the public proclamation of Sheriff John Benjamin, of Windsor, the ballots showed the re-election of Thomas Chittenden, Joseph Marsh, and Ira Allen, as Governor, Lieutenant-Governor, and State Treasurer, respectively,

¹ Goodrich's *Vt. Soldiers of the Revolution*, p. 798.

² *Id.*, p. 83.

³ B. H. Hall's *History of Eastern Vermont*, pp. 343, 600.

and a new Council composed of Joseph Bowker, Jacob Bayley, Peter Olcott, Paul Spooner, Timothy Brownson, Jonas Fay, Benjamin Carpenter, Moses Robinson, Jeremiah Clark, Ira Allen, Thomas Murdock, and Elisha Payne. The last, then a citizen of the town of Cardigan (Orange) on the east side of the Connecticut River, having also been elected a town representative, preferred to serve in the latter capacity and resigned from the Council. His place as a councillor was filled by the appointment of Benjamin Emmons. The Legislature chose Thomas Chandler, junior, as Speaker, Bezaleel Woodward, of Dresden (representative of the Dartmouth College district), as Clerk, and Joseph Fay as Secretary of State.

The records of the Assembly show that an aggregate of seventy-four men had received credentials as representatives from the several towns. After deducting from this total the thirteen representatives from towns east of the Connecticut River, we find thirty-five representatives from towns between the River and the Green Mountains, and twenty-six representatives from towns to the west of the Mountains. Whether we include or exclude a considerable number of the elected assemblymen who seem to have been absent throughout the session, we find in canvassing the sixty-three who were noted as present that the control of the State looked definitely transferred to the east side of the Green Mountains. Many towns were unrepresented. Of those on the west side, Cornwall was the most northerly one to send an assemblyman. Brattleborough, Hinsdale (Vernon), and Newfane still ignored the New State; and although several of their near neighbors are credited with representatives, we may doubt that this fact indicated in every case a preponderance of New State sentiment. Ethan Allen was one of Arlington's two elected assemblymen. Owing, as he explained, to his conscience and his convictions, he could not meet the religious test which formed a part of the Constitutional oath of office. He therefore did not qualify as a representative, yet he was quite willing to remain in attendance, and, so far as he was able, to dominate the session. His sensitiveness in the matter of religious belief must have afforded to those who knew him a comic touch to what was otherwise a rather tragic fortnight.

With respect to the election of representatives from the town of Norwich, the legislative minutes disclose a course of procedure which may have been observed in some instances in the transactions of the previous legislature, but which is definitely set out in the minutes for the first time in the entries on October 10. Colonel Peter Olcott and Thomas Murdock, who had been elected as the town representatives of Norwich, were also elected by the votes of the State as members of the Council. Instead of resigning from the Council, as did Colonel Elisha Payne, of Cardigan, in a similar case, they retained their seats as Councillors and obtained a legislative "order" whereby on four days' notice the freemen of the town of Norwich were called to a new election of town representatives. Proceedings under this "order" went forward with such dispatch that on October 14 Abel Curtis and Captain Joseph Hatch took their oaths of office as the new Norwich assemblymen. Not only as a matter of interesting procedure, but as introducing into Vermont politics the educated and talented young Abel Curtis, the Norwich special election was important. Although but twenty-three years of age, this young Dartmouth graduate of the class of 1776 soon played a large part in Vermont affairs.

Another matter which arose early in the session left marked results. It consisted of the appointment of the brothers Judah Paddock Spooner and Alden Spooner as "printers for the General Assembly of this State." These brothers had recently set up a press near Dartmouth College in Dresden. By the law of Vermont the State's eastern boundaries now included Dresden and Hanover with other New Hampshire towns. Four months earlier, at the June session, Vermont's Legislature had voted "to take the incorporated university of Dartmouth under the patronage of this State" and to commission its president, Eleazar Wheelock, a justice of the peace. A Hanover clergyman, the Reverend Eden Burroughs, had preached Vermont's "election sermon" in Windsor on October 8. There was, therefore, plenty of precedent for appointing as the State printers two young men who resided and had their printing office on the east side of Connecticut River. In this manner began Vermont's connection with the Spooner brothers, and

the long career of Alden Spooner as an editor, a printer, and a conspicuous figure in the public affairs of Windsor and Vermont generally.

When Abel Curtis and Captain Hatch reached Windsor on the afternoon of Wednesday, October 14, and had been sworn in as members of the Assembly, they found the House of Representatives, the Governor, and the Council "in a committee of the whole" considering the letter of complaint written by President Weare of the New Hampshire Council, and other disturbing papers which bore a relation to the same subject. This was the beginning of what was perhaps the most sensational legislative transaction in Vermont's history. The "committee of the whole" already had been sitting during the afternoon of the 13th and the morning of the 14th.

Ethan Allen, back from his visit to the Continental Congress in Philadelphia, had reported to Vermont's Assembly in writing under date of October 10. Heretofore we have stated that his trip had been a successful one. He had established friendly if not confidential relations with Henry Laurens, of South Carolina, the President of Congress¹; he had secured for himself from Congress the handsome bonus of seventy-five dollars per month, dating from the award of the brevet on May 14,² and he had barely failed in obtaining a Continental commission as colonel. Gouverneur Morris, who had made the motion for the brevet, had since become aware of Allen's renewed activities against New York and had blocked the proposal for the commission.³ But aside from gaining personal profit and increased distinction as a public character, Ethan Allen's chief stroke at Philadelphia was the winning of a promise from a sufficient number of delegates that no decision on the protests of New York and New Hampshire against Vermont should be made by the Congress before he had had opportunity to explain the congressional situation to the Vermont Assembly and report back to Philadelphia.⁴ With no little dramatic skill and without concealing his own satisfaction or his good opinion of himself, he described this triumph

¹ *Rural Magazine*, p. 518; 1 *Gov. & Coun.*, p. 417, note.

² *Journal of Cont. Cong.* for Sept. 24, 1778.

³ ⁴ *Public Papers of George Clinton*, p. 100. ⁴ *Slade's State Papers*, p. 93.

of diplomacy in his written report to the legislature at Windsor. As set forth in the report, he had formed a pretty definite impression that the temper of Congress was utterly opposed to Vermont's appropriating any territory east of the Connecticut, and that Vermont was in danger of annihilation through a hostile move by all the confederated States, unless the union with the New Hampshire towns was rescinded; but with the New Hampshire union out of the way he was satisfied that Vermont had little to fear from New York as a single adversary.¹

Ethan Allen's report, Meshech Weare's protests to Governor Chittenden and to New Hampshire's delegates at Philadelphia and a letter written by Chittenden to Weare on September 3, had been laid before the committee of the whole in the Vermont Legislature at Windsor on October 13. Besides these documents, the committee had the protest of Brattleborough, Hinsdale, and other southeastern towns objecting to the formation of the New State.² The committee had also a copy of Governor Clinton's letter addressed to Pelatiah Fitch, of Brattleborough, under date of July 7, advising that New York would presently commission military officers in Cumberland County, and urging that the people of New York allegiance should resist the execution of Vermont laws in the communities in which the friends of New York predominated.³ Slade's transcript of the Assembly's minutes adds this item: "A verbal representation was also made by Col. Ethan Allen, of the situation of affairs relative to this state, at the honorable Continental Congress: after which, the matters relative to the union of sundry towns, east of Connecticut river, with this state, were largely discussed."⁴ As a matter of fact, not much else of importance was discussed at the session from October 13 to the date of final adjournment on October 24.

Forceful as Ethan Allen's reports had been there were members of the Vermont Legislature who were determined still to defend the New Hampshire union. Some of them were probably actuated by motives of self interest. Others seem to

¹ *Id.*, p. 93.

² *Supra*, pp. 439-441.

³ Slade's *State Papers*, p. 94; 3 *Public Papers of George Clinton*, p. 528.

⁴ Slade's *State Papers*, p. 94.

have supported the union as a matter of honor. There were some men like General Jacob Bayley, a member of Vermont's Council, who were not inclined to give full faith or credit to any report submitted by Ethan Allen. One of these men—an unnamed member of the Assembly—according to an article written by Doctor Samuel Williams for the *Rural Magazine*, bluntly put to Ethan Allen the question whether the New Hampshire delegates at Philadelphia did or did not give him a pledge that they would help defeat New York's claim to Vermont, if Vermont would dissolve the union with the towns east of the Connecticut River. To this question Allen is reported to have answered: "Yes, they did, upon honour."¹

But we do not have to rely wholly on hearsay for what took place at Windsor in the way of heckling Vermont's political leader. An eye-witness in the person of Windsor's venerable old settler, Captain Zedekiah Stone, has left a written statement under oath of what he, while sitting as a spectator in Windsor's meeting house, heard of Ethan Allen's cross-examination on the bargains made at Philadelphia. This statement, drawn in what looks like the handwriting of Colonel Nathan Stone, signed by Captain Zedekiah Stone and sworn to before Hilkiah Grout as a justice of the peace under the government of New York, found its way to Governor George Clinton, who transmitted it to New York's delegation at Philadelphia in a letter dated December 17, 1778.² The statement, now preserved among the papers of James Duane at the rooms of the New York Historical Society, is as follows:

"State of New York }
Cumberland County } Windsor 19th November 1778

"I, Zedekiah Stone of Lawfull age, testifieth and saith, That at the Sessions or General Assembly of the pretented State of Vermont in October Last, held in Windsor, Came into the said assembly as a Spectator; That your Depon^t heard Colo^l Payne one of the members of said assembly ask Colo^l Ethan Allen upon his Hon^r to give him an ans^r to the following Question—Vizt. Whether in his Conversation with the Members of the Continental Congress for the State of New Hampshire

¹ 1 *Gov. & Coun.*, p. 417.

² 4 *Clinton Papers*, 394.

(did not get encouragement from them that if he would break off the Union and Leave out that part of the State on the East side of Connecticut river) that they would befriend him in Getting that part on the West side of said river Established as a state. The aforesaid Colo^l Allen answered to the aforesaid Question Yes. further your Depon^t Sayeth Not.

Zedekiah Stone.

Windsor, November ye 19, 1778

"Personally appeared the above Named Zedekiah Stone the Deponant and made solom oath of the truth of the above Deposition by him subscribed.

"Before me

Hilkiah Grout

Justice peace."

Although Governor George Clinton, who was always skeptical of Ethan Allen's veracity, was loath to believe that New Hampshire's delegation at Philadelphia would have been party to a secret political trade so injurious to the interests of New York there is nothing incredible in the story. Every delegate at Philadelphia represented a constituency that had repudiated its allegiance to its former government. The confederation of independent States was so comparatively new and weak that it had not gained for itself as a government any very deep-seated respect on the part of the elements which composed it. Each new State was living for itself, looking out for itself, and had become a member of the confederation mainly if not wholly as a war measure and only for the duration of the war. Though each separate State was deeply concerned over its own rights, it felt little anxiety for the rights of others. The idea of a permanent United States Government had not taken root.¹ Neither Meshech Weare nor his State's delegates at Philadelphia cared if the State of New York be torn in two by internal dissension provided the two fragments could together contribute New York's full share to the prosecution of the war. If by favoring the division of New York into New York and Vermont, the men of New Hampshire could regain their own lost sixteen towns, they saw nothing particularly immoral in giving aid and encouragement to Vermont's original aspirations at New York's expense. Allegiances were lightly

¹ Timothy Dwight's *Travels* (1821 edition), vol. I, p. 159.

held by the average revolutionists. The time in which Ethan Allen lived accounted for much of his lack of scruple and for a similar lack on the part of his contemporaries in Vermont and New Hampshire.

Colonel Elisha Payne, who, according to Captain Zedekiah Stone, was Ethan Allen's heckler before the General Assembly at Windsor, was a character of more than ordinary parts. To him more than to anybody else Ira Allen gives the credit or discredit of having persuaded a majority of the Vermont towns to vote in favor of the New Hampshire union in the spring of 1778.¹ His counsel had been deemed of sufficient value to justify an invitation to him to accompany Doctor Jonas Fay and Lieutenant-Governor Marsh to the proposed interview with the Continental Congress in Philadelphia in the month of March. Whether rated as a citizen of Vermont or as a citizen of New Hampshire, his influence was strong for the union between western New Hampshire and the New State. During both periods of union his official position in Vermont affairs was important. In fact, it seemed for some time that he would succeed in preserving the first union in opposition to Ethan Allen, Meshech Weare, and the Continental Congress.

The debate "in the committee of the whole" continued at Windsor from day to day. On October 16 the committee of the whole voted that it would enter on such measures as might tend "to support the union." On the next day Colonel Payne, with Governor Chittenden, Lieutenant-Governor Marsh, Doctor Jonas Fay, and Bezaleel Woodward were delegated as a sub-committee to draw the outlines of a plan for the "further establishment of the state and to lay a foundation for an answer to President Weare's letter to Governor Chittenden."

As far as the records show, the sub-committee was unanimous in agreeing on the report which Chittenden as chairman submitted to the committee of the whole on Monday, October 19. As a matter of fact, the report recommended the drawing of a declaration reciting, first, the history of the Grants from the beginning; second, that township grants on both sides of the Connecticut had formed a union under one government, had

¹ 1 *Gov. & Coun.*, 428.

“solemnly covenanted to support each other in said government,” and, third, “are *unanimously* determined, in every prudent and lawful way, to maintain and support, entire, the State as it now stands.” The next paragraph of the report is less clear and less firm. It is susceptible of an interpretation contradictory to the paragraph which precedes it. It proposed a treaty with New Hampshire with respect to such towns west of the Mason claim as “shall accede to a union with this state” and it offered, with certain reservations, to submit the case to a judicial tribunal in case of New Hampshire’s unwillingness to make the cession. If this latter proposal brought into question the status of the sixteen towns that had already joined Vermont, the report of the sub-committee at once reveals an inconsistency. The concluding paragraphs of the report advised a proper drafting of the foregoing proposals, their submission to the Assembly, their transmission to the government of New Hampshire, the Continental Congress and the other States, and recommended that Vermont’s Assembly erect courts and enact appropriate statutes. On the receipt of the report the committee of the whole adopted the same as its own report to the Assembly and then dissolved.

The next morning—Tuesday, October 20—the Assembly approved the report. Then followed resolutions for the transmission of messages to the president of New Hampshire and the president of the Continental Congress, announcing the decision to adhere to the union and the offer to treat with New Hampshire. The Assembly chose one committee to draft the two communications and another to “draw up the proposed declaration at large to be laid before this assembly.” To this point things had gone fairly smoothly, but the personnel of the last-mentioned committee boded trouble in including such enemies as General Jacob Bayley and Colonel Ethan Allen with Colonel Payne, Doctor Jonas Fay, and Bezaleel Woodward. Next came a resolution for the distribution of handbills to show what had been agreed upon. The last transaction of the day was the appointment of a committee of nine to confer with a committee of the Council in the preparation of a bill to divide the State into four counties. Colonel Payne was a member of every committee appointed by the Assembly

and Captain Ebenezer Curtis, of Windsor, was appointed to the committee on the four counties.

Wednesday morning showed that there had been an overnight weakening in determination. A day of reconsideration and of change of front followed. By nightfall the General Assembly of Vermont had been torn asunder by proposals which in effect discarded totally the courageous programme theretofore adopted. The first rift appeared on a motion that the counties of Vermont remain as established at the March session. Since the Connecticut River was the eastern boundary of Cumberland County, the towns lying to the eastward of the stream and already admitted into union with Vermont would, if the motion prevailed, be outside of any Vermont county. To pass such a motion would look like a breach of faith with such towns and, according to modern views, would be an unconstitutional proceeding. This was the interpretation placed upon the motion by the representatives from the east side of the Connecticut. They and others who shared the same opinion were in a minority of twenty-six. Thirty-five voted in the affirmative.

There followed in quick succession two other motions, viz., first, a motion to make the towns east of the Connecticut and already in union a part of Cumberland County. This motion was defeated by a vote of thirty-three to twenty-eight. The next and last motion covered a proposal to erect into a separate Vermont county the towns east of the Connecticut and already in union with Vermont. This motion was rejected by exactly the same vote and the repudiation of Vermont's engagement with the sixteen New Hampshire towns was virtually complete. On each of the three ballots the names of Thomas Cooper and Ebenezer Curtis, of Windsor, appear with the majority.

In analyzing the minority vote on the three motions, it will be found that it included, in addition to the representatives from the east side of the Connecticut, the representatives from the Connecticut valley towns on the west side of the river north of Hertford (Hartland), the representatives from Wilmington, Kent (Londonderry), Clarendon, and Wallingford, and one of the two representatives from Bennington. Putney's

representative joined the minority on the two last motions, while Speaker Chandler, of Chester, voted with the minority on the first. The division of the Assembly was therefore not wholly on sectional lines, although largely so. Vermont historians take the view that the majority of the House had acted the part of discretion and had made an intelligent attempt to right a wrong. Two wrongs, however, do not make a right.

If it was wrong on the part of Colonel Payne's New Hampshire towns to separate from the jurisdiction of New Hampshire and form a part of Vermont, it is not easy to see why towns lately within the jurisdiction of New York could rightfully forsake that government to form another part of Vermont. A little over two years later, when Ethan Allen had changed his opinions and had found the boot on the other leg, he himself was making this very point.¹ If any towns which preferred to be a part of Vermont had the right to be such, why was it that towns like Brattleborough, Hinsdale (Vernon), and Newfane, which preferred to be a part of New York, might not rightfully have their way? To answer this and other questions by logic or according to principles of law or equity we may leave to those historians who profess the ability to do so. The factors which seem to have been controlling in determining Vermont's course were inclination, an appraisal of strength and weakness, and a consideration of the expediency of the moment. To assume the average Vermont settler of the Revolutionary period to have been actuated always by what we call principle is extravagant and unjust. He and his fellows, against heavy odds, formed and maintained a State. Whatever their methods, their achievement in that particular is enough to make Vermont history remarkable without our crediting the actors with virtues that they did not possess.

As the several votes were announced, the defeated minority in the Vermont Legislature signed and submitted two well-drawn protests against the injustice done by the majority. Twenty-four assemblymen who were of the minority then withdrew from the Legislature and by a written remonstrance filed with the majority renounced their association with the

¹ 2 *Gov. & Coun.*, p. 359.

government of Vermont. Lieutenant-Governor Marsh, General Bayley, Colonel Olcott, and Thomas Murdock, of the Council, joined the separatist movement, and, with the exception of General Bayley, joined in signing the remonstrance. The Vermont Assembly, which showed upon its records a membership of seventy-four, was thus reduced almost in the twinkling of an eye to forty. Under the Constitution a quorum was two-thirds, so that fifty members were necessary to do business. The ingenious majority were not baffled by this seemingly impassable barrier against further transactions. They won back the revolting member from the town of Sharon, fixed the original maximum membership of the Assembly at sixty-one by omitting to count any but representatives of towns west of the Connecticut, and thus maintained that with forty-one members present they had a Constitutional quorum. The historians Doctor Samuel Williams, Ira Allen, and even William Slade, Zadock Thompson, and Governor Hall have swallowed without a wink this interesting feat of mathematics, and its soundness seems to have been questioned only by the luckless minority members.

The "quorum" of forty-one continued their sittings at Windsor for three days, created the Superior Court of Vermont, voted to "revive" every statute passed at previous legislative sessions, except the Banishment Act and the act constituting the "Special" Court, resolved to report to the towns "the circumstances of the union subsisting between sixteen towns on the east side of Connecticut River and the *former* state of Vermont," asked for another referendum vote on the subject and appointed a committee consisting of Colonel John Barrett, of Springfield, and Captain Ebenezer Curtis, of Windsor, to prepare the laws for the press.

On October 24, the last day of the session, the members present voted to appoint Thomas Cooper, of Windsor, with Edward Harris, of Halifax, and Thomas Rowley, of Danby, a committee of three "to prepare a bill, respecting the freedom of slaves, agreeable to the bill of rights." This was the first recorded notice of official recognition of the most famous provision in Vermont's Constitution. The session adjourned to February 11 at Bennington.

William Slade in his *State Papers* fully recognized the gravity of the situation produced by the schism in the new State.¹ He speaks of the excited feeling on the part of the revolted minority² and regards the measures they presently pursued as of an alarming character.³ Jeremy Belknap, the eminent New Hampshire historian, writing at a period when the events we are dealing with were fresh in his mind, asserts that "this secession had nearly proved fatal to the State of Vermont."⁴ The bolting Assemblymen and the bolting members of the Council having immediately organized themselves into a convention or committee at Windsor, took steps to lay their grievance before the people of Vermont, with a view to reconstructing the State on broader lines. Lieutenant-Governor Marsh, as chairman, signed on October 23 a brief on the illegality and unconstitutionality of the conduct of the majority.⁵ It displayed a knowledge of constitutional law rather unusual for the time. Altogether it was of such weight and soundness that the majority discreetly refrained from attempting a direct answer at the moment. Prepared for circulation throughout the Grants, it called on the people to elect delegates to a convention to be held at Cornish—just across the river from Windsor—on December 9, to decide upon a method of uniting the whole of the New Hampshire Grants on both sides of the river in one new State, or, failing that, to induce New Hampshire to annex the entire region. On the same day Marsh wrote from Windsor a letter to the president of the Continental Congress reporting briefly the issues that had developed. The letter stated that the bearer, Colonel John Wheelock,⁶ would give fuller details of the situation.⁷

The leaders of the majority at Windsor were equally busy at mending their fences. Ethan Allen's quill on October 23 drafted a letter to accompany Governor Chittenden's official communication of the same date to President Weare, of New Hampshire. As might have been expected, the Governor's letter was not a particularly happy production. Four days prior to its composition he had signed and submitted as chair-

¹ Slade's *State Papers*, p. 100.

² Belknap's *History of N. H.*, p. 34.

⁶ A son of the president of Dartmouth.

³ *Id.*

³ *Id.*, p. 101.

⁵ 1 *Gov. & Coun.*, pp. 423-426.

⁷ 8 *Gov. & Coun.*, pp. 398-399.

man of a committee a report advising that Vermont was "determined . . . to maintain and support entire the state as it now stands." In the letter to Weare he found himself reporting, first, a determination that "no additional exercise of jurisdictional authority be had east of Connecticut River for the time being," second, the dissent and withdrawal from the Legislature on the part of the representatives of the sixteen towns, and, third, his conclusion that these representatives had no further claim on Vermont's protection.¹ He could not produce, had he wished it, any definite legislative act or resolution actually severing the New Hampshire union. The fact that the "quorum" of forty-one had included upwards of half a dozen members who had previously voted with the minority, had made it a delicate matter to raise the issue again. And probably not even a majority of the forty-one would have been willing to flout the referendum vote of the preceding spring. "As the union was formed by the voice of the people, the Legislature chose to dissolve it in the same way."²

If Chittenden felt any sense of mortification either at confessing a backdown from former pretensions or in acknowledging a breach of faith with his eastern constituents, no such feelings troubled the stalwart breast or busy brain of Ethan Allen. The latter saw nothing shameful in Vermont's conduct except in failing to rebuff the sixteen towns when they had first asked leave to join Vermont. Allen's anxiety, if anxiety is a thing that he was capable of experiencing, was that Chittenden's letter would not satisfy Weare. So Allen himself wrote a letter. Its Rooseveltian tone is so refreshing and its substance and style are so characteristic of Ethan Allen, that we give it in full.

Sir: State of Vermont, Windsor, 23d Octob^r 1778.

In Conformity to my engagement to Colonel Bartlett, one of the Members of Congress from New Hampshire, I am induced to write to your Honor, Respecting a number of Towns to the Eastward of Connecticut River which Inadvertently by influence of designing men, have Lately been brought into Union with the State of Vermont, which in my Opinion is now

¹ 8 *Gov. & Coun.*, p. 398.

² Allen's *History of Vt.*, p. 116.

entirely dissolved. I engaged Col. Bartlett to use my Influence at this Assembly for that Purpose. The Governor's Letter to your Honor, Together with what Squire Allen¹ the Bearer will Communicate, will set this Matter in its True Light.

The Union I ever view'd to be Incompatible with the Right of New Hampshire, and I have punctually Discharged my Obligation to Col. Bartlett for its Disolution, and that Worthy Gentleman on his part assured me that he had no Directions from the Government of New Hampshire to extend their Claim to the westward of Connecticut River to Interfere with the State of Vermont, and I hope that the Government of New Hampshire will excuse the Imbecility of Vermont in the matter of the Union. I apprehend Col. Payne had a Principal Influence in it, and it was with Difficulty that this Assembly got rid of him. I am appointed by this Assembly to act as agent for the State of Vermont at Congress, where I shall shortly repare, and Depend that New Hampshire will Accede to the Independency of the State of Vermont as the last Obstacles are Honourably removed.

I am with Due respect Sir your very Humble Serv^t

Ethan Allen.

Hon^{ble} Meshech Weare, Esq.

Having been a prisoner of war and outside of Vermont politics at the time the union with New Hampshire had been voted in Vermont's referendum, Ethan Allen could speak of Vermont's "Imbecility" in the matter without accusing himself. Others may have made idiots of themselves but not he. Alone he proceeded without fear, embarrassment, or visible misgivings. His example was of incalculable value at this and many other trying moments in Vermont's early days, and nobody profited by that example more than did his young brother Ira, who under Ethan's orders and instructions, and as his chief clerk, came now into his own as a useful political tool of the New State.

Strict observance of the truth was never deemed by the two brothers as a requirement which they themselves must meet. As indulgent a commentator as Governor Hiland Hall

¹ Ira Allen.

is caught remarking regretfully in an editorial foot-note to one of Ethan Allen's papers that a certain assertion was "a striking instance of the inaccuracy (to use no harsher word) of the Allens."¹ So in the foregoing letter to President Weare, it should not be assumed that Ethan Allen sincerely felt everything that he wrote. In fact, not many years elapsed before he was expressing on the major point quite the opposite sentiments when they seemed best to serve his purpose.² One is reminded of Lowell's playful yet discerning rhyme on Gladstone:

"His greatness not so much in genius lies
As in adroitness, when occasions rise,
Lifelong convictions to extemporise."

¹ 2 *Vt. Hist. Soc. Coll.*, p. 238, note.

² *Id.*, pp. 231-239; 2 *Gov. & Coun.*, pp. 355-363.

CHAPTER XLVIII

ERRATIC DAYS

So Windsor, having seen the end of an exciting legislative session and the amputation of the eastern wing of the New State, was about to become an onlooker of attempts at repairs or reorganization in a new convention center.

Looking across the Connecticut from the Windsor side of the river one can see to-day no village or trace of a village in Cornish. There was no village there in 1778. There has never been a village in that part of Cornish Township which is visible from Windsor. In 1778, as at present, from the Plainfield line on the north to the Claremont line on the south, the river front of Cornish showed a succession of houses, generally widely separated, with Cornish Hills in the near background. There was a meeting-house not far from the spot where Trinity Church now stands. One or more of the homes of the Chase family took in transient lodgers and wayfarers, of whom—except for extraordinary occasions like legislative sessions—there were probably rather more on the New Hampshire than on the Vermont side of the river. Travelers were inclined to favor the road on the New Hampshire side of the river as against that through Windsor. On Chase Brook and perhaps on Blowmedown Brook were whatever saw mills or grist mills the town of Cornish could support. The place had none of the appearance of what we would picture as a convention town.

Yet, if one stops to consider, one recognizes the fact that in 1778 there was little difference in community development on the two sides of the stream. True, Windsor had more meadow: the hills on the Vermont side rose less abruptly from the valley: Windsor had more space available for roads or streets: the Windsor terraces covered a considerable cleared area stretching back from the river to Leet's Hill and the other uplands lying to the north or south; but in the matter of clustered dwellings or other buildings that go to make up what we term a village, Windsor then had scarcely more to show

than had Cornish, then or to-day. Indeed, perhaps a journey up the river road through the Cornish of to-day, if due allowance is made for the improvement in the quality of the houses and grounds, affords a pretty clear idea of what Windsor looked like in 1778. Therefore, there was nothing outlandish in 1778 in selecting Cornish as a convention town if Windsor was one. Rather it was a natural selection, because it was close to what had become the political center of New State activity and yet possibly beyond the reach of a Vermont indictment for conspiracy, sedition, or treason.¹

Not all the men who had participated in the doings of the October session at Windsor left town immediately on the adjournment of the Legislature. The Governor remained over Sunday in Windsor, where he found time on the following Monday to sign an order in the case of Watts Hubbard, junior, as heretofore mentioned. Ira Allen also tarried. The latter, as he himself asserts, having turned artist for the time being, charged to the State of Vermont under date of October 26, 1778, "2 days at Windsor drawing a plan for a state seal and getting Mr. R. Dean to make it."² The price—ten shillings for his own time and ten shillings paid to Reuben Dean for cutting Vermont's first seal—was but a modest outlay for what was obtained. In 1923 the present writer, drawing upon his own imagination for an interpretation of that interesting work of art, composed the following:

"The original Vermont State seal, a cut of which appeared in volume 15 of *The Vermonter* and, more recently, in *Folklore of Springfield*, dates back to the foundation of the State. It was a disc and has as its main feature an unbroken horizontal line of trees which may be supposed to represent Vermont's primeval forests. In the center of the forest rises one tree of exceptional height to typify the range of the Green Mountains. On each side of the great tree and above the forest as

¹ For a few months following the establishment of the Eastern Union in June, 1778, John Benjamin, of Windsor, as Sheriff of Cumberland County, had exercised authority in the sixteen towns east of the Connecticut River. (*Vindication of the General Assembly*, p. 15.)

² *Thompson's Vermont*, part II, p. 107, note.

well as in each of the two corresponding stations below the forest is a shock of grain to represent the four constituent New York counties which wholly or in part seceded from New York to form Vermont, viz., Gloucester and Cumberland on the east side of the Green Mountains, and Charlotte and Albany on the west. A cow appears on the east side in recognition of the comparative safety of that locality, while on the opposite side a hostile spear from New York has penetrated the western boundary.

"Just inside the circumference of the seal and in each of the four quarters, as if guarding the grain, is a serried line formed by ten arrow heads. These four lines of weapons may denote Vermont's defence against the world. Directly below the forest is the name 'Vermont' between two ornamental scrolls, while lower yet, in two lines, are the words 'Freedom & Unity.'

"At the extreme top of the disc is what appears to be a heavy cloud. The meaning of this cloud, if it has any, is somewhat difficult to guess. From Ira Allen's firsthand account of the adoption of the State Constitution in Windsor on July 8, 1777, we know that the Constitution was read for the last time and agreed upon by the convention while a violent thunderstorm was raging. We also know that at the same moment the advance of Burgoyne loomed over Vermont like a threatening cloud. As the Reverend Aaron Hutchinson wrote to Vermont's Council of Safety on September 6, 1777: 'I had expected the convention would not sit at that time by reason of the *dark cloud* then coming over us, and which overwhelmed us the week after.' Whether the designer of the seal had in mind General Burgoyne's army or Ira Allen's thunderstorm the 'cloud' is a very obvious part of Vermont's original seal.

"The maker of Vermont's original seal was a Windsor silversmith named Reuben Dean. His shop was on the east side of the Connecticut River highway or town street not far from where the Methodist Church now stands.¹ . . . This seal was used by the State until 1821 when it was superseded by one bearing a closer resemblance to the present State Coat

¹ Reuben Dean's place passed to Doctor Nahum Trask and was inherited by the latter's daughter, Mrs. Plumb. It was known in the writer's day as the Plumb place and the McCarty house. Originally it was but a one-story dwelling.

of Arms with which most Vermonters are familiar. The new seal was considered of much finer style and far more appropriate than Reuben Dean's production. It is not unlikely, however, that if the choice were now open the decision would favor the original seal as the more artistic and more full of historical significance. Though obviously an old-fashioned piece of work, Reuben Dean's seal has the quaintness and much of the grace and manner of the old 'samplers' which are now treasured as priceless heirlooms.¹ They were almost the only works of art commonly made in Vermont in those early days and it was therefore natural that in patterning a design for a State seal Reuben Dean's ideas should have been shaped by what he had seen made in his own modest home and in the homes of his neighbors."²

Vermont's Legislature at its Bennington session on February 20, 1779, formally accepted this seal as the seal of the State with the proviso that Ira Allen be empowered to have it "cut deeper." It was thereafter affixed to commissions and other papers that had been voted or authorized as far back as the spring of 1778. Its use continued for upward of forty years.

Another sequel of the legislative session of October, 1778, was the matter of preparing the Vermont laws for the printer. We find from a voucher dated November 17, 1778, that Ebenezer Curtis of Windsor and Colonel John Barrett of Springfield had completed their work upon the statutes and that the manuscript had been delivered to Alden Spooner the State Printer at Dresden on that day. The actual printing was deferred until after the next adjourned session when many more laws were passed. Another voucher among the original papers of this period, preserved in the Secretary of State's office in Montpelier, concerns our old Windsor friend Ebenezer Hoisington. He who had been so prominently identified with the preliminaries leading to Vermont's statehood was now reduced to the minor but perhaps more lucrative roles of deputy conservator of confiscated property and deputy constable. Under date

¹ See cut on title page.

² From the editorial columns of the *Burlington Free Press* of November 13, 1923. (*The Vermonter*, vol. 28, No. 9, p. 126.)

of October 3, 1778, he submitted his "Bill of Expenses for Cort attendenc" which included a gill of wine and a "Diner" for himself as well as "oats for horse" on September 29. Other items charged by Hoisington to the State of Vermont were a mug of flip, a glass of rum, ferrying at Windsor and "pursuit of prisoners that broke goal." It is a pleasure to find that Doctor Paul Spooner of Hertford (Hartland) and Benjamin Emmons of Woodstock, who were the committee to pass upon this account rendered by Ebenezer Hoisington, wrote at the foot thereof and over their own signatures:

"Your committee have examined the above bill of expenses and find the charge agreeable to the times, the expenses moderate and the sums rightly cast."

From Windsor, Ethan Allen went to Philadelphia to give to the Continental Congress his version of the dissolution of the New Hampshire Union. A very brief report of his mission he submitted as an appendix to Ira Allen's printed *Vindication of the Conduct of the General Assembly of the State of Vermont*. He was comforted to find that the New Hampshire delegates at Philadelphia had received from their constituents instructions "not to assert their claim to the westward of Connecticut River"¹ but he seems to have overstepped discretion in seeking to give to the Congress the erroneous impression that the inhabitants of the sixteen New Hampshire towns had finally acquiesced in the severance of the union and a return to New Hampshire's jurisdiction. On this point Colonel John Wheelock of Drésden, who as their delegate had come on from Windsor to Philadelphia, tripped him up.²

Ira Allen, as Vermont's emissary from Windsor to New Hampshire's seat of government, proceeded with more caution than did his elder brother. On arriving at Exeter he got in touch with the state authorities, prepared for them a brief but well written history of the proceedings leading up to the union with the sixteen towns, charged the responsibility for the union largely to Colonel Elisha Payne, of Cardigan, New Hampshire,

¹ *Vindication of General Assembly*, pp. 47-48.

² *George Clinton Papers*, vol. 4, p. 322.

and sought to make it appear that Colonel Payne's false representation of New Hampshire's assent to the union in the spring of the year had deceived the people of Vermont into voting for it in the first instance. He then proceeded to give his own version of the "dissolution" voted by Vermont's Legislature at Windsor and wound up his report with a warning that the representatives from the sixteen towns were presently to meet with representatives from several Vermont towns in Lebanon in furtherance of a plan to unite the Grants on both sides of the Connecticut in one state. This paper of Ira Allen's, dated at Exeter, November 4, 1778, may be found in the first volume of *Governor and Council* at pages 427 to 429. That it made a fairly satisfactory impression on President Weare, of New Hampshire's Council, may be inferred from the latter's letters to Governor Chittenden¹ and Ethan Allen² under date of November 5, 1778. From the letter to Chittenden it would appear that Ira Allen had given oral assurances that there was to be a more definite legislative repudiation of the union on the part of Vermont after taking a referendum vote on the subject.

Ira Allen was back on the Connecticut River before the end of November. At Alden Spooner's printing office at Dresden he turned in for publication on the 27th his *Address to the Inhabitants of the State of Vermont*,³ a paper in which he gave not only a report of his doings at Exeter, but a brief argument in favor of the expediency of strictly limiting the State of Vermont to the Grants west of the Connecticut. Seizing upon Lieutenant-Governor Marsh's public suggestion that New Hampshire might be urged to consider asserting a claim to Vermont, Ira Allen cunningly treated this as a real danger. He pointed out that New Hampshire was "some in debt" and had a plan of assembly representation by population whereby "it would take five or six of our new towns to send one member" to the New Hampshire legislature. He also asserted himself to have been advised that the Continental Congress, except for New York's delegation, was quite willing that Vermont should be a State "in its first described limits west of Connecticut River." From these premises he reasoned

¹ 8 *Gov. & Coun.*, p. 400.

² 1 *Id.*, p. 427.

³ 5 *Gov. & Coun.*, p. 540; 4 *George Clinton Papers*, p. 396.

that the people of Vermont would perceive the prudence of keeping aloof from New Hampshire and sticking to the claim for separate statehood and admission to the confederation.

The representatives of the sixteen towns under the leadership of Colonel Payne, Lieutenant-Governor Marsh, General Bayley, and Professor Woodward, though not as prompt as Ira Allen, were equally busy at Lebanon and elsewhere in preparation for the coming Cornish convention. It will be recalled that prior to the rupture at Windsor a committee consisting of Ethan Allen, Colonel Payne, Doctor Jonas Fay, Professor Woodward, and General Bayley had been appointed to draft a "declaration" to lay before the General Assembly. The breach had occurred before the committee could report, but a majority of the committee were included in the body which had withdrawn from the Council and General Assembly. Taking advantage of that circumstance the three majority members of the committee—General Bayley, Colonel Payne, and Professor Woodward—sought to give to the manifesto which they now prepared the guise of a committee report made under Vermont legislative sanction. This cloak deceived nobody, even if it was intended so to do, yet it did give to the composition a certain dignity of official standing or propriety which it otherwise might not have possessed. It begins: "Pursuant to a Resolve of the General Assembly of the State of Vermont passed October 20th, 1778, 'that a declaration be drawn up setting forth the political state of the New Hampshire Grants (so-called) on both sides of Connecticut River &c' the major part of their Committee appointed for that purpose, have agreed to present the following facts and observations . . ."

This report, which was printed as a pamphlet by Alden Spooner at Dresden under the title "A Public Defence of the right of the New Hampshire Grants (so-called) on both sides Connecticut River to Associate together and form themselves into an Independent State," may be found in full in the fifth volume of *Governor and Council* at pages 525 to 539. Instead of being intended primarily as a committee report it was a campaign document published for circulation in Vermont and western New Hampshire with a view to gathering delegates at

the Cornish convention and furnishing them with a political platform. As a state paper it can stand comparison with the average of the period in logic, truth, and persuasiveness. Economically, it presented the advantage of a larger state and the elimination of the inconvenience of keeping the boundary at the Connecticut River. It had the defect of being rather long and in proposing too many possible methods for the solution of the union questions instead of driving for one conclusion; and it had the grave disadvantage of having been anticipated by four days by Ira Allen's *Address*.

The number of courses presented for selection in the Bayley-Payne-Woodward "Defence" were in fact four, viz., (1) that the New Hampshire Grants on both sides of the Connecticut come to an agreement with the assembly of New Hampshire as to a boundary between New Hampshire and the Grants; (2) that all disputes with respect to the union be submitted to a Court of Commissioners appointed by Massachusetts, Rhode Island, and Connecticut; (3) that all such disputes be submitted to the Continental Congress; (4) that in case no adjustment could be made in any one of the three mentioned modes there be negotiations with New Hampshire looking to an extension of New Hampshire's jurisdiction over the Grants on both sides of the Connecticut.

The Cornish Convention assembled on December 9, 1778, at the house of Dudley Chase. This house, which formerly stood approximately on the site of the recently burned Beaman residence at "Blowmedown" has been preserved in attractive condition through the efforts of the late Charles Coatsworth Beaman. It has long been one of the ornaments of his estate and stands about one hundred yards north of where his main house stood. He called it "the Casino" by which name it is still locally known.

The attendance at the Cornish Convention was probably not large. Ira Allen, who took the precaution to be in the neighborhood at the time—"providentially," as he says—in order to spy upon the doings of his rivals, seems to have had no difficulty in gaining admission. His report of the transactions omits to give the number of delegates and is singularly lacking in names, but he does state that only eight of the towns west

of the Connecticut River were represented by delegates,¹ and that the number of New Hampshire towns represented was "not so many as expected."² An attested record of a portion of the proceedings shows that Lieutenant-Governor Marsh, of Hartford, Vermont, presided as chairman of the convention and that the secretary was Professor Bezaleel Woodward, of Dartmouth College. The same record shows that the pamphlet heretofore referred to as the *Public Defence* was thoroughly considered by the delegates, was unanimously approved and that the several proposals for settling the jurisdictional dispute as therein set forth were adopted in convention in the order in which they had appeared in the pamphlet. The extract reveals that the delegates seriously contemplated applying to New Hampshire to extend its jurisdiction over the whole of Vermont although such course was to be predicated only on the failure of further efforts to induce a larger number of the towns west of the Connecticut River to join with the sixteen towns east of the river in forming a new or reorganized State.

In his letter written to Weare on December 12³, as well as in his *Vindication of the General Assembly*⁴ and in his *History of Vermont*⁵ Ira Allen, who was prone to follow the not unusual custom of attributing blame and unworthy motives to others, expressed his conviction that the real aim of the seceding members of Vermont's Assembly and Council had been to establish the seat of government of the New State at the Connecticut River. The *Vindication* contains Allen's assertion that the first seeds of discord between the sixteen towns and the State of New Hampshire were sown at Dartmouth College.⁶ For this belief on his part, if in fact he did so believe, there is some color of support in a passage from the *Public Defence* where, as one of the arguments for the joinder of the sixteen New Hampshire towns with the State of Vermont, the writers point out that Vermont had shown a disposition liberally to patronize the college whereas New Hampshire had neglected

¹ See Ira Allen's letter to Meshech Weare, dated at Windsor, December 12, 1778 (5 *Gov. & Coun.*, pp. 539-540).

² *Vindication of the General Assembly*, p. 34.

³ 5 *Gov. & Coun.*, p. 540.

⁴ *Vindication*, etc., p. 42.

⁵ Allen's *History of Vt.*, p. 118.

⁶ *Vindication*, etc., p. 41.

and would probably continue to neglect it.¹ Further corroborative evidence might possibly be found in the records gathered by Mr. E. P. Walton² from New Hampshire sources for the fifth volume of *Governor and Council* and particularly from President Weare's letter of December 16, 1776.³ But Ira Allen fails in terms to controvert the statement of General Bayley, Colonel Payne, and Professor Woodward in the *Public Defence* that "overtures were made by a Convention of the Grants on the west side to those on the east side of the river as early as September, 1776,"⁴ to join the Vermont movement.

The location of the seat of government was a point in controversy. Of this there can be little doubt. It was, however, hardly a major point. Behind it lay the larger consideration of what men or what political group should control the affairs of the New State. Jeremy Belknap, in his temperate review of these times, perceived the external aspect of the case and stated it with admirable clearness. "Several interfering interests," wrote Belknap, "conspired to perplex the subject. The people on the western side of the Green Mountains wished to have the seat of government among them. Those adjoining Connecticut River, on both sides, were desirous of bringing the centre of jurisdiction to the verge of the river. The leading men of the eastern part of New Hampshire were averse to a removal of the government from its old seat."⁵

It would not have been a serious blow to posterity if the Connecticut River had not become the dividing line between Vermont and New Hampshire; nor would the cause of civilization have suffered if such men as General Bayley, Lieutenant-Governor Marsh, Colonel Olcott, Colonel Payne, and Bezaleel Woodward, with or without the active political support of Dartmouth College, had won the upper hand in shaping the destinies of the New State. With all respect for the talents of the group of men who succeeded in keeping control of Vermont affairs at this trying stage we must not forget that the leaders were far from faultless. Although President Dwight of Yale College perhaps permitted religious intolerance unduly to color

¹ 5 *Gov. & Coun.*, 537.

³ *Id.*, p. 506.

⁶ Belknap's *History of N. H.*, vol. II, pp. 343-344.

² *Id.*, pp. 507-513.

⁴ *Id.*, p. 527.

his opinion of these men there is food for reflection in his almost contemporary judgment of them. "A considerable number of those who first claimed and acquired influence in the State of Vermont," wrote he, "were men of loose principles and loose morals. They were either professed Infidels, Universalists, or persons who exhibited the morals of these two classes of mankind. We cannot expect, therefore, to find the public measures of Vermont distinguished, at that time, by any particular proofs of integrity or justice."¹

Up to the meeting of the adjourned session of Vermont's Legislature at Bennington on February 11, 1779, no large results seem to have flowed from the campaigning on either side. Perhaps the inhabitants had had enough of politics for the season. The disposition of the people of Windsor was indicated by the following decision reached at a town meeting held on February 8: "Voted that the Representatives be Instructed that they act Relative to Dessolving the Union between this State and Sixteen Towns East of Connecticutt River as shall appear to them Nessasary." Crockett says, however, that the committee appointed by the Cornish Convention was active in attempting to secure such instructions for Vermont's assemblymen as would insure the continuance of the Union.² Certain of the Chase Family of Cornish who were warm advocates of the union and were also owners of land in Windsor may be presumed to have been pulling wires at this time. Ira Allen, on the opposing side, with the co-operation if not at the direction of Ethan Allen, sent out from Alden Spooner's press at Dresden as a campaign document the *Vindication of the General Assemblies* under date of January 9, 1779. This pamphlet of forty-eight pages, although containing a good deal of specious reasoning and occasional passages of doubtful veracity, is an effective composition and an entertaining review of the Union and of the rupture in the October legislative session. That neither the Vermont Historical Society's Collections nor the volumes of *Governor and Council* contain a transcript of this *Vindication* is quite remarkable.

¹ Timothy Dwight's *Travels in New England and New York*, 1821 edition, vol. 2, p. 471.

² Crockett's *History of Vt.*, vol. II, p. 237.

Not the least diverting portion of this *Vindication* is the two-page appendix, subscribed by Ethan Allen, giving a report of his last Philadelphia lobbying trip from which he omitted all reference to his having encountered Colonel John Wheelock. A comic feature of the appendix is what appears to be an intimation that Ethan Allen had reached the conclusion that his refusal to meet in October the religious test required of assemblymen was a political misstep. "When I consider," he wrote, "the infant settlement of this country, the oppressive hand of New York which has ever been stretched out against it, its frontier situation in the present revolution and barbarous war with Great Britain, and the magnanimity, fortitude and perseverance with which the militia (alias) Green Mountain Boys have withstood the several conflicts, maintained their ground, vindicated their liberty, triumphed over their enemies, foreign and domestic, and baffled all their machinations, shining with superior lustre both in arms, freedom of constitution and government, and, above all, in the righteousness of their cause, I cannot reflect on the mighty scene without amazement *and acknowledging the propitious agency of Deity.*" We can imagine the winks and grimaces with which the blustering agnostic wrote that absurdly extravagant sentence to make himself appear a less improper person than the good Congregationalists at Windsor must have thought him in October when he refused to acknowledge his belief in God, the Bible and the Protestant religion.

Whatever the direct effects of the political campaign that preceded the adjourned legislative session of February, 1779, the organization of the Assembly was complete enough to make unanimous the passage of a resolution definitely terminating the union with the sixteen towns. In all, fifty representatives were present. Of these at least twenty-one came from the east side of the Green Mountains. The minutes and debenture list show Thomas Cooper's presence but nothing as to Windsor's other assemblyman. Four of the twelve councillors and the lieutenant-governor were absent. The comparatively small body of those in attendance coupled probably with their realization of the urgency of the hour made for such efficiency that a complete revision of the State's statute law was finished

after a session of sixteen days. Not the least interesting of the enactments of the session was a law passed on the day of adjournment whereby upwards of one hundred named persons were banished for having gone over to the enemy. Included in the list were our old acquaintances John Grout (then of Chester), Colonel William Marsh, of Dorset, Colonel James Rogers, and Crean Brush. No Windsor name, barring Grout's, occurs in the list. The most important of the men named in the statute was Justus Sherwood, of New Haven, who shortly afterwards figured prominently in Vermont affairs.

The year 1779 has perhaps no equal for turbulence in Vermont's history. The position of Vermont as an actively combatant State in the American Revolution had become almost negligible though it had not acquired the anomalousness which characterized it a year later. Internal dissensions and the unfriendliness of neighboring States gave little opportunity for warring upon a foreign foe. Such men as General Bayley and Colonel Seth Warner who still considered the question of American independence paramount to other subjects were contributing their efforts to that end in co-operation with the military authorities of New Hampshire or New York or the Continental Congress rather than with those of Vermont.

No sooner had General Bayley been apprised of Vermont's action in definitely dissolving the union with the sixteen towns than he with Davenport Phelps of Orford, on behalf of towns on both sides of the Connecticut River, retaliated by applying to the New Hampshire Legislature to extend New Hampshire's jurisdiction over all the Grants on both sides of the Connecticut. After a few months of deliberation the New Hampshire Assembly voted favorable consideration of this proposal. Presently Massachusetts preferred a claim to a portion of southern Vermont, thereby—with New York—making three neighboring adversaries against whom the new and feeble State was called on to contend, to say nothing of the persistent group of New York sympathizers in southeastern Vermont and the British army in Canada. There can be no wonder that Vermont was in a tremble: rather the wonder is that Vermont was not extinguished.

In this most trying period Windsor continued to be a storm

center, an outpost of Vermont's struggle for existence, confronted on the east by the convention headquarters of the sixteen New Hampshire towns, on the north by the Marsh, Olcott, and Bayley party and on the south by the outposts of New York sympathizers. Sheriff John Benjamin, of Windsor, as the active local agent for the Vermont government, had his hands full. He now had personal charge of the recalcitrant Watts Hubbard, junior, with the duty of keeping him under guard and extracting from him the amount of the judgment for fine and costs imposed by the Council.¹ To John Benjamin's charge was also committed the person of Titus Simonds of Hertford (Hartland), a Loyalist prisoner, who having lately served as a lieutenant and quartermaster in Lieutenant-Colonel Peters's Queen's Loyal Rangers, was now sentenced to labor within the town of Windsor.²

Another case requiring Sheriff Benjamin's services was that of Major Hilkiah Grout, of Weathersfield. Grout's predicament was peculiar. Holding a commission as justice of the peace from the State of New York he had been requested to take within the territorial limits of Vermont the testimony of several witnesses for the purposes of a case pending in one of the New Hampshire courts. Counsel had applied for leave to take the testimony before a Vermont justice but the New Hampshire court had refused and had ordered that it be taken before a New York justice of the peace. Grout was the officer selected for the duty. Consistently a loyal supporter of New York's government and not lacking in a sense of duty or in courage, Grout proceeded towards the Otter Creek where the several witnesses resided. At a house in Shrewsbury witnesses appeared before him, were sworn by him and their testimony taken on the evening of February 17. At two o'clock the following morning the house at which he lodged was surrounded by armed men who carried him to Fort Ranger in Rutland for trial by Court Martial on the charge, as he says, of conduct, "enemical to the United States of America." Apparently Ethan Allen was absent, for the Court Martial gave as its decision that "the crime is not supported."

Discharged by that tribunal, Grout was haled before a Ver-

¹ 1 *Gov. & Coun.*, p. 290.

² 1 *Gov. & Coun.*, p. 291.

mont justice of the peace on the charge of having officiated in a judicial capacity without a commission from Vermont. On this charge Grout was held in bail for appearance at the Superior Court of the State of Vermont at Rutland the following June. Grout was able to give bail, was released, returned to his home and in June, "agreeable to my Recognisance" like a good soldier, he appeared at the Vermont Superior Court in Rutland for trial. Very properly, the only defence he offered was a plea to the jurisdiction. This, of course, was overruled and the court imposed on him a fine equivalent to one hundred and sixty-six pounds, thirteen shillings, four pence of New York currency together with costs of sixty-four pounds, sixteen shillings. All told, Grout's contribution to the resources of the New State was to be two hundred and thirty-one pounds, nine shillings, four pence, when collected. For this great sum the possessions of Major Grout at Weathersfield became liable under levy of execution in the hands of Sheriff John Benjamin.¹

One can imagine that John Benjamin with his sounding titles of captain and high sheriff had made his Windsor neighbors aware of his sense of his own importance. During the period that the union with the sixteen towns had been operative his activities had extended even beyond the Connecticut River, for, as Ira Allen remarked in his *Vindication of the General Assembly*, "the High Sheriff of the county of Cumberland had officiated in his office in said sixteen towns."² An officer whose bailiwick was so large and whose hands were full of political cases of public interest had a right to expect that the New Englanders' reverence for public office should be properly manifested in his direction. To John Benjamin's mortification his near neighbor, Colonel Nathan Stone, was not impressed.

Colonel Stone, as will be remembered, had been both lieutenant-colonel of the militia and high sheriff of the County of Cumberland under the Provincial Government of New York. He had been a justice of the peace. He had been for a brief period the chairman of Windsor's Committee of Safety. Of course, he had met with political reverses in consequence of

¹ 4 *George Clinton Papers*, pp. 694-697; 5 *Id.*, p. 172; B. H. Hall's *History of Eastern Vt.*, pp. 329-331.

² *Vindication*, etc., p. 15.

his leaning towards the older government, had been deposed from his last named office and once had been a prisoner under military guard. Although it was his usual condition to be involved in debt he was still a large land-owner in his own right with the sole trusteeship of all the undivided common lands and "public rights" in the township of Windsor. By the Reverend Ranna Cossit, the Loyalist minister of the Church of England in Claremont, New Hampshire, Colonel Stone was rated as a Loyalist. Captain Justus Sherwood, a secret service agent attached to the British army in Canada, also seems to have regarded Colonel Stone as a Loyalist; but there appears to be no definite record of any proceeding against Nathan Stone on that count. A good reason for leniency towards him was that much of the public lands still stood in his name, that new purchasers were frequently coming forward to whom Colonel Stone was obliged to make conveyances, and that no court of chancery or equity had then been constituted under Vermont law within authority to remove Colonel Stone from his trusteeship and appoint a successor. In the deeds which he gave he continued stubbornly to describe the Windsor lands sold by him as "in the Province of New York," a phrasing which no doubt was very annoying to all Revolutionists and all adherents to the New State. Later he compromised by use of the terms "in the State of New York" which were but little more agreeable. It is small wonder if he regarded Sheriff John Benjamin as an upstart or if Sheriff Benjamin considered Colonel Stone as a peculiarly undesirable citizen.

On or about the fifteenth day of March, 1779, as the criminal complaint filed in the Superior Court of Cumberland County by State's Attorney Noah Smith alleged, Colonel Stone at Windsor did "utter and publish, in the hearing of many good and faithful subjects of this State, these reproachful and scandalous words of the 'authority,' to wit, God damn you (meaning the High Sheriff of said county, John Benjamin Esq.) and your Governor (meaning his Excellency the Governor of this State) and your Council (meaning the Honorable Council of this State); which opprobrious language was a violation of the law of the land."

Mr. B. H. Hall, in his *History of Eastern Vermont*, states

that this criminal prosecution against Colonel Stone was founded on a new statute which made it a penal offence to "defame" or "slander" any person or to defame any court of justice or the sentence or proceedings of the same or any of its magistrates, judges, or justices in respect to any act or sentence.¹ It would seem, however, that another statute which made it a misdemeanor to "swear profanely, either by the holy name of God, or any other oath; or sinfully and wickedly curse any person or persons," might fit Colonel Stone's lamentable conduct. Yet since the maximum fine prescribed under the latter statute was but six shillings for each offence and since Colonel Stone cursed only fifteen persons in the aggregate, it is hard to see how the Superior Court before which he pleaded guilty could figure up a penalty of twenty pounds. That sum, together with two pounds, twelve shillings costs, Colonel Stone was sentenced to pay.² Perhaps the learned judges took unto themselves authority from a higher source than mere statute law, for in the following month, in another case, the same Court rendered a judgment "by virtue of authority granted to this superior court, grounded on the sure and unerring word of God." Under the statute punishing "defamation" there was no limit, except the discretion of the court, as to the fine that could be imposed.

John Benjamin, after this triumph over the profane member of the Church of England, "got religion" himself. On the third anniversary of the Declaration of Independence he became a member of the Congregational Church of Christ in Windsor. His character, unfortunately, had not been permanently reformed, and it was not many years before he was sentenced to excommunication.³ It must be remembered that this was a period of rough life and rough manners. "The state of society," as the Reverend E. H. Byington wrote, "was very different from what it is at present. It required all the watchfulness of the church to keep back a portion of its members from practices that were scandalous. There was no instance of excommunication during this period [1779-1784],

¹ B. H. Hall's *History of Eastern Vt.*, p. 331.

² Slade's *State Papers*, p. 552.

³ *History of the First Cong. Church in Windsor*, p. 51.

but sixteen written confessions were read before the congregation and accepted by the church. Six of these were confessions of drunkenness, three of breaking the Sabbath, three of profane swearing, and four of violations of the seventh commandment. . . . The difficulty was not so much that the standard within the church was lower than at present, but that the standard outside the church was lower.”¹

Windsor seems to have taken notice of Colonel Stone's transgression. At the town meeting on March 22 it was voted that the town should “take the Publick Rights into their care.” This meant probably that the lands reserved for the first settled minister, the schools, the glebe for the Church of England and for the Society for the Propagation of the Gospel in Foreign Parts had best be in the charge of somebody other than the erring Colonel Stone. The committee chosen to relieve Colonel Stone of his responsibilities consisted of Captain William Dean, Ebenezer Hoisington, Richard Wait, Thomas Cooper, and Ebenezer Curtis. It does not appear that the committee ever did anything—perhaps for the reason that Colonel Stone refused to be ousted.

Fortunate, indeed, was Windsor in this year to secure two resident pastors, one of whom, at least, was eminently suited to the peculiar needs of the community. The Reverend David Tullar, a graduate of Yale College in the class of 1774, came to Windsor in his twenty-ninth year and was ordained pastor of the Congregational Church in the East Parish on March 3, 1779. Whatever may be said of the narrowness of his religious views, he was firm for discipline and order. The little church of thirty-nine members acquired upwards of forty recruits during his pastorate. Over them all he ruled with sternness and success. Deacon Hezekiah Thomson, Ebenezer Curtis, Ebenezer Hoisington, Steel Smith, Watts Hubbard, senior, and Elisha Hawley are mentioned by Mr. Byington as the leading members. Mr. Tullar acquired from Gideon Cowles the property on the west side of the town street, extending from what is now the foot of the Common Hill south to the churchyard. In this conspicuous and fairly central location he was well placed for the exercise of influence in the community. On the

¹ *Id.*, pp. 11-12.

day of his ordination there was also ordained as pastor of a newly formed Congregational society in the West Parish the Reverend Pelatiah Chapin.

The forming of two societies of the same denomination in a single township, though foreshadowed by the decision to divide the town into two parishes, bespoke the waste, the disunion, and the unnecessary duplication of effort which have characterized Vermont in many departments throughout its history. Windsor, which in 1779 could barely keep one pastor and church, thus undertook to support two of each. Another division in religious matters came to the surface on March 26, when Steel Smith's son Roswell and Deacon Thomson's son Joseph withdrew from the East Parish Congregational Church "to build with the Baptists." As early as the autumn of 1781 a group of church members living in the west part of the town proceeded logically to burden the community further by building a meeting-house for the West Parish.¹ This last item makes it evident that in point of population the West Parish of Windsor was approximating that in the East Parish.

Among the many statutes enacted at the legislative session of February, 1779, was one for forming and regulating the militia. Under this statute the State was divided into five districts, with one regiment of militia to be raised in each district. The fact that three of these districts were on the east side of the Green Mountains indicates that the population between the Connecticut River and the Green Mountains still considerably exceeded that on the west side of the

¹ Among the manuscripts relating to the Adams family of the West Parish, in the possession of Mrs. Henry M. Morgan, was found the following undated memorandum:

"The names of those persons that agreed to pay Mr. Thomas Adams for the frame of the Meeting house & Look to the Society for their pay together with the sums, viz.,

"Lieut. Cummins	£0-15-0	Maj. Benj. Wait	£6- 0-0
Lieut. Leavens	0- 4-0	Mr. Amos Kendall	2- 0-0
		Mr. Jeremiah Bishop	2- 0-0
		Capt. Joel Ely	1-10-0
		Capt. Saml. S. Savage	2- 0-0
		Capt. Richard Wait	1- 0-0
		Mr. Joseph Barrit	1-10-0
		Mr. Joseph Woodruff	1- 0-0 "

State. Under this statutory provision Windsor was grouped with towns lying north of Westminster and south of Norwich in the third regimental district.¹ Another product of the session was the statute prescribing town brands for horses. Each town was to have its own design. Windsor's was an equilateral triangle on a horizontal base. This branding statute is important as showing the names of all the towns which the Assembly considered then within the State or at least all those worth legislating for. They numbered but sixty-three in all, of which twenty-seven were on the west side of the Green Mountains and thirty-six on the east.² No town east of the Connecticut River was included in the application of either of these statutes.

During the year 1779 Ethan Allen maintained his dictatorship in State affairs with increased versatility. No sooner had the Legislature formally dissolved to his satisfaction the union with the sixteen New Hampshire towns, than he announced the result by a personal note to Meshech Weare, in which the use of the pronoun "I" bore eloquent testimony to Ethan Allen's personal control of Vermont. "I hope," he admonished President Weare, "your government will vigorously exert their authority to the East Banks of the River, for I consider the schism on both sides to be equally against both governments, and therefore both should join to suppress it. I have this further reason for the exertion of Government, as I am confident that Argument will be lost with them, for the heads of the Schism at large are a Petulant, Pettefoging, Scribbling sort of Gentry, that will Keep any Government in hot water till they are Thoroughly brought under by Exertion of authority."³

So much impressed was Ethan Allen with the virtue of force in the settlement of political controversy that he now concluded to have himself commissioned as a regulator of the southeast corner of Cumberland County, where allegiance to New York still survived. By a fortuitous chain of events and a cunning seizure of opportunity, his stroke in this quarter appeared almost justifiable. General James Clinton had asked Chittenden for recruits. To meet the requisition Vermont proceeded to draft with marked partiality the men whose sym-

¹ Slade's *State Papers*, pp. 305-312.

² *Id.*, p. 365.

³ 1 *Gov. & Coun.*, p. 431.

pathies were inclined towards New York. These had no greater zest for army service than their neighbors, and they made a fine show of resisting the draft on the ground that they could not recognize the authority of the new State. The story of draft evasion, of attachments and rescues, is admirably told in B. H. Hall's *History of Eastern Vermont*, at pages 333 to 345. Here was just the cue that Ethan Allen wanted. Having secured from Chittenden a written order to raise a body of one hundred men,¹ he marched with this force into Cumberland County, took into his custody thirty-six prisoners, held them at Westminster until they could be tried, lectured the State's Attorney and the Court on their duty in the premises, and succeeded in securing the conviction of several of the culprits and the imposition of substantial fines. The town of Windsor, in the person of Sheriff John Benjamin, lent its support to the prosecution. For four days he was in attendance at Westminster with a posse comitatus he had spent five days in raising.²

No dictator ever more completely or with greater versatility discharged the manifold functions of government than Ethan Allen. He held the purse-strings through his brother Ira, who was the State Treasurer and soon to be chosen Surveyor-General of the public domain. The Legislature had done Ethan Allen's bidding in October and February. He assumed on frequent occasions the role of Minister of Foreign Affairs. He took charge of the War Department on May 6, took the field in command of the forces, and then saw the business through by directing the operation of the Department of Justice. His brother Ira, with unconscious humor, wrote that "as the people seemed inclined for a popular government, the constitution was so made"³; but for all practical purposes, in the year 1779 the government of Vermont was a dictatorship unrestricted by any constitution and with Ethan Allen as sole authority. Perhaps he alone appreciated the farce and mockery of laws, courts, and public officers when, in the Westminster Court House on the 27th day of May, 1779, he recited Pope's couplet

¹ *Gov. & Coun.*, pp. 299-300.

² Goodrich's *Vt. Soldiers*, p. 791.

³ Allen's *History of Vt.*, p. 108.

“For forms of government, let fools contest;
Whate’er is best administer’d, is best.”¹

All hands now repaired again to Windsor, where an adjourned session of the Legislature was scheduled for June 2. Here came, triumphant, Ethan Allen to receive his reward. Here came Sheriff John Benjamin, only to find himself without honor in his own country. Here, on the first day of the session, appeared Alden Spooner from Dresden, to deliver to the authorities the first edition of Vermont’s statutes, fresh from his press, and to collect his pay. On June 4 Captain Steel Smith received seven pounds sixteen shillings for “distributing laws.”² Strange as it may seem, it appears to have been the fact that, except for the Constitution, Vermont had been administering her government since July 8, 1777, entirely without a printed code of her own.

Ethan Allen, acting his part before the Legislature most courteously, permitted the Assembly to approve the conduct of Vermont’s Board of War, consented to the appointment of a committee to give thanks to the Governor and Council for raising and sending the posse comitatus to Cumberland County (although it did not appear that the Council had had the slightest connection with the enterprise), and then, with these pleasing preludes out of the way, had himself elevated to the post of Brigadier-General of the Militia, while his brother Ira was made Surveyor-General. These were not his only rewards. Since he was attending the session “by the Desire of the Gov^r. & Council” he received cash compensation for his services in legislation, although he had not been elected to the Assembly. This generous precedent helped his pocketbook on several subsequent occasions.³ At this same session were laid definite plans for dividing the ungranted townships not only among deserving Vermonters but among enterprising residents of other States and influential army officers whose interested sympathy, thus stimulated, might be of political advantage to the new State in its contest with

¹ B. H. Hall’s *History of Eastern Vt.*, p. 343.

² 39 *Vt. State Papers MS.*, pp. 16-17.

³ 2 *Gov. & Coun.*, p. 25.

the Congress, New York, New Hampshire, and Massachusetts.¹

One of the choicest products of the summer session at Windsor was Governor Chittenden's proclamation of pardon to every convict in Vermont, except those guilty of capital offences. Since the latter class probably included not a single actual case, the proclamation might well answer the definition of a general jail delivery. Its quaint language, which occasionally approached the preposterous, is believed to have been the literary effort of Stephen Row Bradley, who had recently appeared in Vermont as a lawyer, with something of a hit to his credit as counsel for the group of defendants prosecuted by Ethan Allen at Westminster. What fear or contrition led the Legislature to order the proclamation does not appear. It is true that among those just convicted at Westminster were such decent individuals as John Sessions, Micah Townsend, Eleazar Paterson, and others of nearly equal standing and character. The personal respectability of these men, the doubts as to the justice and propriety of their conviction, the desirability of winning them over to the Vermont side if that could be accomplished, the futility and expense of keeping them in jail—these and similar considerations may have weighed with the Legislature in voting the proclamation of pardon. Whatever good impressions might have been presumed to arise from this act of executive clemency by itself were nearly, if not quite, offset by the passage of a particularly bloody statute at Windsor on June 3, whereby any person who claimed to act as a public officer within the State under any authority except that of Vermont or the Continental Congress might for persistent offending be flogged on the naked back, have his right ear cut off and nailed to a post, and be branded on the forehead with the capital letter C.²

Besides the elevation of Benjamin Wait to Vermont's "Board of War," Windsor received in 1779 another honor from the new State in the appointment of Ebenezer Curtis as a commissioner for the sale of confiscated estates in the towns of

¹ General Sullivan considered it bribery (8 *Gov. & Coun.*, p. 409). Roger Sherman, who was offered grants, was too wise to accept.

² Slade's *State Papers*, pp. 389-390. See also 2 *Gov. & Coun.*, p. 187.

Windsor, Reading, Hertford (Hartland), and Woodstock. The favor with which Major Wait had come to be regarded among the new State politicians led him to other triumphs. He aspired to and secured the place of Esquire Thomas Cooper as Windsor's junior assemblyman for the autumn session of the Legislature. This position won, the Council was wise enough to appoint him High Sheriff for Cumberland County in the room of John Benjamin. Major Wait was not backward at taking opportunities in the way of land grants, which presently were bestowed on those close to the State government. With Ethan Allen and Colonel John Strong he served as a committee of three to advise the Legislature on the township grants that should be made. In some of these early essays at private gain out of the public resources he was the collector of fees or treasurer.

On the very day that Vermont's Legislature opened its June session at Windsor the Continental Congress at Philadelphia under the constant pressure of dispatches from Governor Clinton finally awoke to the propriety of taking cognizance of the doings of the Vermontese. Although probably not fully advised of Ethan Allen's display of military force in Cumberland County the Continental Congress actually showed enough vigor to appoint a committee consisting of five members—Oliver Ellsworth and Jesse Root, of Connecticut, Timothy Edwards, of Massachusetts, Samuel Atlee, of Pennsylvania, and John Witherspoon, of New Jersey—to visit the "District known by the name of New Hampshire Grants," find out why a part of the inhabitants were in a state of rebellion against the respective jurisdictions of New York and New Hampshire, and take prudent steps to promote adjustment. Obviously the committee was primarily to study conditions on both sides of the Connecticut River.

The prospects of the committee's accomplishing something were gratifying to William Floyd, Gouverneur Morris, John Jay, and James Duane, who, as New York's delegates to the Continental Congress, wrote an optimistic letter thereon to Governor Clinton.¹ The triviality and balderdash of some Congressional investigations as known to Americans of the

¹ 5 *Clinton Papers*, pp. 9-10.

twentieth century were then undreamed of. The members of congressional investigating committees in 1779 had never conceived of using their opportunities chiefly in a manner to insure their own re-elections or for gaining newspaper headlines or fattening the *Congressional Record*. In spite of this the committee to visit the Grants could hardly have been more feeble in its action. It never functioned as a body. Atlee and Witherspoon came to Bennington for only a momentary visit and left for Albany in season to miss entirely Ellsworth and Root, who also tarried but briefly.¹ Atlee and Witherspoon seem to have regarded their mission only as that of pacifiers for the time being.² To get the information asked by Congress does not appear to have occurred to the committee as their business, although they incidentally learned something.³

Ethan Allen, who seems to have divined that the congressional committee would return to Philadelphia either empty-handed or possessed of facts that might be damaging to Vermont, secured a commission from the Vermont Council at Windsor on June 12 for himself and Doctor Jonas Fay to wait on the Continental Congress forthwith.⁴ The two were in Philadelphia on July 2, on which date, according to Governor Hall, they submitted Vermont's new statute book, Chittenden's proclamation of pardon, and a few other items.⁵ The visit was possibly useful to Vermont in its tendency to keep Congress inactive since the letter addressed by Ethan Allen and Jonas Fay to Congress on July 1 shows that the writers were alive to the fact that Vermont was gaining through the procrastination of Congress.⁶ The visit also gave General Allen a chance to satisfy himself of the truth or falseness of his own recent assertions that two-thirds of the members favored Vermont's independence.⁷

The Continental Congress now was favored by a memorial from a convention held at Lebanon, New Hampshire, on July 27. This memorial, written with superior skill and signed by former Lieutenant-Governor Joseph Marsh, Colonel Elisha Payne, Colonel Peter Olcott, Colonel Jonathan Chase, and

¹ *Id.*, p. 109.

² *1 Gov. & Coun.*, 441.

³ *5 Clinton Papers*, p. 114.

⁴ *1 Gov. & Coun.*, p. 305.

⁵ H. Hall's *Early History of Vt.*, p. 294.

⁶ *2 Gov. & Coun.*, p. 169.

⁷ *5 Clinton Papers*, p. 64.

Professor Bezaleel Woodward, was accompanied by a letter written by Joseph Marsh, as chairman. These papers, printed at length in volume II of *Governor and Council*, at pages 170 to 174, presented with force and dignity the argument that if there was to be an independent State between the jurisdictions of New Hampshire and New York, it ought to include all the so-called New Hampshire Grants on both sides of the Connecticut River. Wholly apart from the merits of its proposals, the paper had the advantage of being subscribed by men of substance.

The year 1779 saw an unusual amount of brief-writing and pamphleteering on the part of Vermont in addition to the papers we have already noted. Among these brochures are a letter dated at Norwich, July 19, 1779, signed by Ira Allen, but perhaps the joint production of Ethan Allen and himself¹; *A Vindication of the Opposition of the Inhabitants of Vermont to the Government of New York*,² by Ethan Allen, and *Vermont's Appeal*,³ by Stephen R. Bradley. The two latter were published as separate documents, and, if one judges from the printed texts, with the express sanction of Vermont's Council; but it is significant that the Council's minutes themselves fail to show any resolution authorizing the publication of the Ethan Allen pamphlet. Although these two were documents of size and weight and replete with history, they seem to have been without much effect outside the circumscribed circles in which Vermont sentiment was already flourishing.

The need for resorting to political pamphleteering and circularizing—if ever there was such a need—was more marked than usual in 1779. The New State project, while vigorously started, seemed to be losing momentum. Instead of securing more perfect unanimity of support in the region known as Vermont, the new government was still deeply torn by dissensions. Chittenden's proclamation of pardon had not converted the recalcitrants in the southeast: the element in the northeast, with General Bayley, Joseph Marsh, and Colonel Olcott

¹ 1 *Gov. & Coun.*, pp. 436–441. Although possessed of a certain adroitness, the mercenary tone of this paper and its affected reference to “the Deity” reflect little credit upon the composer or composers.

² *Id.*, pp. 444–517.

³ 2 *Gov. & Coun.*, pp. 200–222.

at its head, was still firm for a union with towns east of the Connecticut. The worst feature of these schisms from Vermont's standpoint was that the Continental Congress, having got wind of them and having reached the belief that Vermont was tottering, became bold enough to take an almost decided stand in recommending that Vermont, New York, New Hampshire, and Massachusetts alike refrain from exercising jurisdiction over any unwilling subjects, and suspend granting any unappropriated lands or selling any confiscated estates on the New Hampshire Grants until Congress should render a judgment. This exhibition of something like a congressional spine came on September 24,¹ somewhere near contemporaneously with the publication of Ethan Allen's *Vindication*.

The congressional resolutions were not what John Jay or George Clinton regarded as "very spirited or pointed,"² but Jay at least thought them satisfactory under all the circumstances.³ He appreciated the view entertained by a good many members that the function of the Continental Congress was that of "opposing the tyranny of Britain and afterwards of establishing our independence," and did not include "authority to interfere in the particular quarrels of any State."⁴ He had heard it suggested, moreover, that harsh measures might induce Vermont to join forces with the British.⁵ Altogether, he felt that for Congress to have gone further at the moment would have been impolitic although possible.⁶ Moderate as was the stand of Congress, the politicians of the State of Vermont were thrown into alarm.

At the meeting of Vermont's newly elected Assembly at Manchester in October, "nine-tenths" of the members, if we may believe Ira Allen, "were for suspending the sale of confiscated property and the granting of lands till after the 1st of February, the time assigned by Congress to examine into the disputes. . . ."⁷ Governor Chittenden, in his speech at the opening of the Legislature on October 14, showed the white feather by recommending a suspension of the enforcement of the barbarous statute enacted at Windsor in June

¹ 2 *Gov. & Coun.*, pp. 183-185.

² *Id.*, p. 187.

³ *Id.*

⁴ 2 *Gov. & Coun.*, p. 186.

⁵ *Id.*

⁶ *Id.*, p. 187.

⁷ Allen's *History of Vt.*, p. 132.

for the punishment of the men in Cumberland County who dared to hold civil or military commissions under New York.¹ To counteract the spirit of surrender Ethan Allen had himself named by the Assembly as one of a committee of four with Doctor Reuben Jones, Nathan Clark, and John Fassett, to form the outline of a plan for the defence of Vermont against the menace of the neighboring States under the recent resolutions of Congress.

The fact that General Allen was not an assemblyman was no obstacle to his being a member of a legislative committee and dominating it. Yet it took a deal more than "a little touch of Harry in the night" to bring courage to the Assembly. Potent though he was, it took him from Saturday, October 16 to Thursday, October 21 to obtain from the legislature, the governor, and the council, sitting as a committee of the whole, a unanimous resolution that Vermont ought to support its right to independence "at Congress and to the World in the character of a free and independent State" and that Vermont should so far defy the Congress as to make Grants of unappropriated lands. The day before winning this victory there had been appointed a Board of War of nine members. Mr. E. P. Walton suspects that in giving to this Board of War the power "to conduct *the political affairs* of this present War" the originator of the plan had in mind the policy which soon manifested itself in the secret correspondence and parleys with the British,² but proof is lacking. On the contrary, several of the men chosen to the Board of War were never parties to that policy and one of them—Major Ebenezer Allen—did what he could to obstruct it.

General Allen next had himself designated ambassador to the State of Massachusetts as well as the first of five delegates to Congress with power to vindicate at Congress Vermont's right of independence and her right to be admitted to the confederacy of States. At the same time he had his brother Ira sent as an agent to the legislatures of New Jersey, Pennsylvania, the lower counties on the Delaware and Maryland and to distribute copies of the "Vindication" pamphlet and transact there such business as might be necessary.

¹ 2 Gov. & Coun., p. 5.

² 2 Gov. & Coun., p. 7, note.

At this session of Vermont's Legislature began the practice of granting new townships to men of influence in Vermont. The Grant of "The Two Heroes" to "Colonels Ethan Allen & Samuel Herrick and their associates our worthy Friends," which vested in a band of three hundred and sixty-seven Vermont spirits the Lake Champlain island townships later known as North Hero, Grand Isle and South Hero, was among the first of the distributions of the public domain among those deemed deserving, influential or helpful. The men favored in Windsor by shares in that then unsettled land were Ebenezer Curtis, Benjamin Wait, Joel Butler, Alexander Parmelee, Steel Smith, William Hunter, John Benjamin, Thomas Cooper, Ebenezer Wood, and Richard Wait.

The realization that Alden Spooner, the State printer, was now located outside instead of within the Vermont borders led to the appointment of a committee of the assembly to wait upon him at Dartmouth College with a view to inducing him to move his printing-office to Westminster and starting a newspaper.¹ A member of that committee was Major Benjamin Wait, of Windsor. So urgent did this matter seem to the legislature that it appropriated three hundred pounds to be given Alden Spooner if he would remove his press to Westminster and settle there.²

¹ *Vt. State Papers*, vol. 3, pp. 94-95.

² *Vt. State Papers*, vol. 3, p. 97.

CHAPTER XLIX

WINDSOR GAINS SOME "NICE PEOPLE"

THE year 1780 at Windsor opened with a gesture of recognition of the existence of the American Revolution. In compliance, apparently, with a request received from the colonel of the Third Vermont Regiment the townspeople assembled in a special town meeting on February 15 at the house of Jeremiah Bishop "in said Windsor." The records of the following year indicate that Jeremiah Bishop's house was in the West Parish. If he had made his home there as early as February 15, 1780, then the special meeting held on that day was probably the earliest held in the West Parish of the town and affords additional evidence that the West Parish was gaining a population somewhere near that in the East.

As became a meeting called to consider military matters Major Benjamin Wait presided. Promptly the town voted to raise five men "in accordance with orders from the Colonel of the Militia."¹ Following this vote were several resolutions relative to raising and equipping a "Scouting Party" of five under the supervision of Major Wait, Major Ebenezer Wood, and Lieutenant Samuel Stow Savage; but the measures came to nought through a characteristic Vermont "reconsideration." Indeed, it is not entirely clear that the initial decision to furnish men on the colonel's requisition was not revoked.

Windsor's annual town meeting was held at the meeting house on the town street on March 7, 1780. It is fully reported and shows an unusually large number of civil offices filled. John Benjamin, having been deposed as the sheriff of Cumberland County, was given by his fellow townsmen the consolation honors of election as moderator and fourth selectman. The other men chosen to the board were Captain John Marcy,

¹ The reference is either to Ebenezer Wood, of Windsor, who was in command of the Third Regiment later in 1780, or to Colonel Joel Marsh, of the White River Valley, who succeeded his cousin, Colonel Joseph Marsh, on the latter's election as Lieutenant-Governor in 1778.

Captain Benoni Cutler, Major Ebenezer Wood, and Deacon Joel Ely. Although Ebenezer Curtis continued to hold his position as town clerk and was chosen town treasurer after Deacon Hezekiah Thomson had declined an election to that office it is observable that a new element was coming into power in the town. Where the older names appeared it was usually in connection with minor posts. Among the new listers we find the name of that excellent Windsor penman, Briant Brown, whose showy signature and clear chirography ornament several volumes of Windsor's real estate records. The other listers were Jacob Hastings, Charles Leavens, and Reuben Dean. For this office as well as for membership on a "Committee to Settle with the Treasurer" we may guess that the ability to write clearly and to figure accurately was the great qualification. To such committee Reuben Dean, Lieutenant Briant Brown, and our old friend Thomas Cooper Esquire were chosen. Aside from elections the chief business of the meeting was the vote that swine "if yoked and ringed" by April 1 might "Go att Large" and a resolution "to add one Shiling on the Pound as in the Grand Leavey to the money Voted att a meeting held March 27, 1779, for the purpose of Procuring Town Book, Waits and Measures, etc."

To turn from this comparatively peaceful record to an almost contemporary description of the Vermontese by their critical neighbor, Charles Phelps of Marlborough, enables us to see ourselves as others see us. Mr. Phelps had been waiting on the New York Legislature and on the Continental Congress in the hope of securing decisive action in favor of establishing some firm government—other than Vermont's—over the region of the Grants. He had suffered annoyances and persecutions, was out of pocket and out of patience in his attempts to resist "the Lawless & Treasonable pretended Domination of such a Contumacious most violent Insulting headstrong and ferocious People of Vermont." He went on thus to anathematize them to Governor Clinton of New York: "Rissen up in the woods among the mountains, Snatching the Helm of Government, wrenching the Sacred and awful Scepter thereof out of the Hands of those who were Lawfully Commissioned to wield it; to the Infinite Prejudice of the people of the whole State and

in Contempt of the authority of Congress and to the whole magistracy of this and in its Consequence to that of the whole United States; which Every Statesman & Learned Politician throughout these States must necessarily own without Hesi-tancy upon the first Clear and Impartial view thereof.”¹

Though he was almost as illiterate as General Bayley or Governor Chittenden, as full of bluster and extravagant speech as Ethan Allen, Charles Phelps's picture of the times and the people deserves to be viewed along with the writings of his contemporaries and partisan enemies. Even if he was ultimately unsuccessful he fought with a pugnacity, a daring, a persistence, and an egotism equal to his adversaries'; had succeeded in Boston in so embarrassing Ethan Allen before the Massachusetts Legislature in the autumn of 1779 as to receive from that worthy a threat of death,² and presently managed to make himself so obstructive to Vermont's endeavors before the Continental Congress that Governor Chittenden felt bound to acknowledge the fact and to mention him by name to that body as “a notorious cheat and nuisance to mankind, as far as his acquaintance and dealings have been extended.”³

Of the progress on Vermont affairs before the Continental Congress in 1780 it is not necessary to deal in any particularity. This is not because the record of the Congress was mainly one of timidity, postponement, shuffling, and evasion, but because such available works as Mr. Walton's notes in *Governor and Council* have detailed the story with admirable fullness and have supported the narrative with the text of many documents. One of these papers, entitled *A Concise Refutation of the Claims of New Hampshire and Massachusetts-Bay*, by Ethan Allen and Jonas Fay,⁴ contains towards the end the keynote to Vermont's attitude before Congress at this stage. As Ethan Allen was pleased to phrase it: “And Whereas this State hold their charter of liberty from Heaven . . . the State has determined not to submit Heaven Born Freedom to the arbitrament of any tribunal below the stars.”⁵ For the sake of language he could compromise with his cherished agnosticism, but he could not

¹ 4 *Doc. Hist. N. Y.*, pp. 601-602.

² *George Clinton Papers*, vol. V, p. 436.

⁴ 2 *Gov. & Coun.*, pp. 223-234.

³ 3 *Gov. & Coun.*, pp. 261-262.

⁵ *Id.*, p. 234.

bring himself to become a party to a trial in which the right of Vermont to independent statehood might be attacked and put in jeopardy. He and other Vermont delegates consistently throughout the year 1780 begged the question. It was obvious enough that once Vermont's independent government were recognized by Congress the claims of New York, New Hampshire, and Massachusetts would fall to the ground, leaving no case for Congress except the question of admitting Vermont into the confederacy. For this reason Vermont's delegates never met or intended to meet the issues raised by the other States. That Vermont seriously expected to be granted admission at this stage of the proceedings may be doubted.

New York, on the other hand, if John Jay's opinion was shared by her other public men, had real hopes of prevailing, although on February 7, 1780, William Floyd, Robert R. Livingston, and Ezra l'Hommedieu as members of New York's delegation to Congress wrote to Governor Clinton indicating their willingness to compromise with New Hampshire by ceding territory lying east of the Green Mountains.¹ Some encouragement to New York's contentions came from the resolutions of Congress on June 2, 1780, which declared that "recent acts and proceedings of the people" inhabiting Vermont "are highly unwarrantable and subversive of the peace and welfare of the United States" and which required the people of Vermont to abstain from the exercise of all authority over those inhabitants of the Grants who professed allegiance to New York, New Hampshire, or Massachusetts.²

The resolutions just referred to come pretty nearly indicating the peak of the courage of the Continental Congress in the Vermont controversy. The Reverend Samuel Williams, writing but fourteen years later, observes that it was generally believed in the other States that some of Vermont's "leading men would incline to join with Canada and make the best terms they could with the British Government if no alternative was held out to them but submission to the government of New York."³ Doctor Williams goes on to say that it was as dangerous for Congress to decide against Vermont as against any of the claim-

¹ MS. letter in the Duane Papers at N. Y. Hist. Soc.

² 2 *Gov. & Coun.*, p. 247.

³ Williams's *History of Vt.*, 1st ed., p. 257.

ing States and that "those who remember the virulence of these parties and the precarious situation of the American contest at that time will not wonder that Congress found reasons to avoid coming to a decision. . . ." ¹

Through American newspapers of Loyalist sympathies the British Government had been giving publicity to the authority vested in General Sir Henry Clinton as Commander in Chief of the British forces in America to offer to the Colonies at large, *or separately*, a general *or separate* peace. Pursuant to such authority he attempted as early as August, 1779, to sound Ethan Allen on the subject.² In August, 1780, Ethan Allen received from Colonel Beverly Robinson of the Loyalist troops in New York the somewhat noted letter, dated March 30, in which the writer broached the possibility of Vermont's becoming a British Province. The same idea which, as Doctor Williams relates, had gained currency in the several States had obviously occurred to the enemy. This letter was not answered, but Allen showed it to Chittenden and "some confidential friends."³ That it made an impression in Vermont circles there is no room for doubt even if there were no direct proof of the fact; but previous to its receipt and under date of July 25, in a memorial addressed by Governor Chittenden to the President of the Continental Congress, occurs a passage which plainly implied the possibility of Vermont's coming to terms with Great Britain. The passage reads as follows: "This people are, undoubtedly, in a condition to maintain government; but should they be deceived in such connexions, yet as they are not included in the thirteen United States, but conceive themselves to be a separate body, they would still have in their power other advantages; for they are, if necessitated to it, at liberty to offer, or accept, terms of cessation of hostilities with Great Britain, without the approbation of any other man or body of men; for, on proviso, that neither Congress, nor the Legislatures of those States, which they represent, will support Vermont in her independence, but devote her to the usurped government of any other power, she has not the most distant motive to continue hostilities with Great Britain,

¹ *Id.*, p. 258.

² *The Vermonter*, vol. XXVIII, pp. 61-62.

³ *2 Vt. Hist. Soc. Coll.*, p. 62.

and maintain an important frontier for the benefit of the United States, and for no other reward than the ungrateful one of being enslaved by them." ¹ The letter from which this passage has been taken was in Ethan Allen's possession for some time previous to its date.² Presumably it was drafted by him. He made no scruple of airing its sentiments among army officers of the New York line.³

The story of Vermont has now reached the threshold of one of its great sensations. The situation of the State, though described in the Chittenden letter as "in a condition to maintain government" and by Doctor Williams as affording "conditions and expectations" that "had at no time been so high," ⁴ still exhibited extreme weakness in the townships south of Windsor and north of Hertford (Hartland). With an eye to such weakness and as an adverse critic of Vermont's management, Joseph Marsh, of Hartford, Vermont's first Lieutenant-Governor, asserted that the conflict of claims of jurisdiction had rendered it "impracticable to conduct the concerns of civil society with any tolerable regularity." ⁵ In a joint letter to the Continental Congress, Professor Woodward and Colonel Olcott represented that "every confusion is taking place among the people" on the Grants. Seventeen years after, when Ira Allen was writing his *History of Vermont*, and perhaps felt called upon not only to make his own exploits as a rescuer bulk as large as possible, but to extenuate his own questionable methods, he remarked that at this stage "the State of Vermont was in a forlorn situation, torn by intestine divisions and the intrigues of her enemies in Congress."⁶ He described it as "on the verge of ruin."⁷ Somewhere between the statements of Ira Allen, on the one hand, and those set forth by Chittenden and Doctor Williams, on the other, lies the truth.

Here a character, new to this volume, enters the play. Living among those inhabitants of Cumberland County who had remained firm in their allegiance to New York, but identifying

¹ 2 *Gov. & Coun.*, p. 256.

² *Public Papers of George Clinton*, vol. VI, p. 40.

⁴ Williams, *Hist. of Vt.*, 1st ed., p. 257.

⁶ Allen's *Hist. of Vt.*, p. 158.

³ *Id.*

⁵ 2 *Gov. & Coun.*, 248.

⁷ *Id.*, p. 161.

himself neither with them nor with the champions of the new State, apparently on terms of neighborliness with representatives of all parties, leader in the local affairs of his own town, was Luke Knoulton, of Newfane. Unidentified as a Loyalist, and frequently pictured by historians as a staunch Vermont patriot, Luke Knoulton, the founder, town clerk, and foremost citizen of Newfane, had been secretly serving the British cause from the beginning of the war. "I have devoted great part of my time for eight years last past," he wrote in 1783, "to promote the Interest of Great Britain at the great Risk of my life and fortune."¹ In the same letter he also observed that "if a peace should take place on such terms as I have now great reason to fear, it would be very mortifying to submit to a Government I have Laboured so much to Overturn."² There must have been men in Cumberland County who suspected Luke Knoulton in 1780. Excited reports of British messengers coming to Newfane from Canada had been dispatched from Brattleborough to Governor Clinton, of New York.³ The region was searched for spies, but without success, although a couple of names were mentioned.⁴ So far as appears from the literature of the times, the finger of suspicion not once had pointed at Luke Knoulton. On the contrary, the leaders of the New York party in Cumberland County reposed such confidence in his integrity and ability that they retained him to represent them before the Continental Congress in the hearings on the Vermont question.⁵

The chairman of the Cumberland County Committee representing the New York party wrote to Governor Clinton on August 30, 1780: "As Mr. Knoulton has resided in the County from the beginning of the Disturbances, and is a gentleman of Penetration and Probity, we flatter ourselves he may be useful to the Delegates either in refreshing their Memories or in acquainting them with some Circumstances which may not have come to their Knowledge."⁶ With such a recommendation it is not to be wondered that Governor Clinton handed

¹ Knoulton's MS. letter to General Frederick Haldimand of the British Army, dated April 19, 1783, in the British Museum.

² *Id.*

³ *Papers of George Clinton*, vol. VI, pp. 213-215.

⁴ *Id.*

⁵ 2 *Gov. & Coun.*, p. 258.

⁶ *Papers of George Clinton*, vol. VI, p. 150.

Luke Knoulton a note of introduction to the New York delegation in Congress.¹

It is unlikely that Luke Knoulton was of service to New York's delegates in Congress or that he intended to be. He went, however, to Philadelphia, where he met Ira Allen and Stephen Row Bradley, the agents for Vermont. There he also met Colonel Peter Olcott and Professor Bezeleel Woodward, the agents for the New Hampshire Grants on both sides of the Connecticut and not in union with Vermont. Ira Allen was moved to record in his *History* that at Philadelphia he and Bradley "spent several evenings in the most sociable manner" ² with the New York members of Congress. Doubtless all the Vermont visitors had a good time at Philadelphia without getting nearer to a decision of the pending questions. The opportunity for intimacy and confidences between Luke Knoulton and Ira Allen during those September days and nights at Philadelphia must not be overlooked. Birds of a feather, skilled at double dealing, the close relations which they then established were proved by events of later years.

At the conclusion of his account of the futile proceedings at Philadelphia, Ira Allen, in his *History*, relates that "a plan was then laid between two persons at Philadelphia to unite all parties in Vermont in a way that would be honourable to those who had been in favour of New York, and said sixteen towns that would also justify the Legislature of Vermont, . . ." ³ We do not at the moment complete the quotation of this execrably written sentence, but stop at this point to say that with singular unanimity Vermont historians incline to the guess that the "two persons" were Luke Knoulton and Ira Allen. Obviously there was a reason in Allen's mind why the names should be suppressed. It was not his practice to omit the mention of his own name if he had been a party to anything worth recounting and to his own credit. The use of the word "honourable" should not be given too much weight, since Ira Allen's understanding of the term, if measured by his character, would not accord with modern definitions or with those of his time. There was then, if he was not romancing, "a

¹ *Id.*, p. 216.

² Allen's *History of Vt.*, p. 140.

³ Allen's *History of Vt.*, p. 146.

plan" concocted between "two persons at Philadelphia to unite all parties." He then proceeds to state that to carry out the plan it was arranged that "western" members of the Council and Assembly of New Hampshire should call a convention at Walpole, and he goes on to give his version of the history of that convention and the subsequent re-union of western New Hampshire with Vermont.

The results of the "plan" seem not sufficiently incriminating to make Ira Allen's suppression of names natural. Indeed, he does mention his own name as a participant in the deliberations of the New Hampshire Convention.¹ But we have another version—at least as trustworthy as Allen's *History*—of what the "plan" really was. In a personal interview with Captain Justus Sherwood, a Loyalist in the British service, Ira Allen explained the re-union between New Hampshire and Vermont and a similar alliance on the west by saying that the Vermontese "have taken in the new Territories with a view to embarrass congress and strengthen themselves for a revolution; . . . " and that "this great and sudden revolution has been brought about upon the principles of an Union with Great Britain, or at least of Vermont being a neutral power during the war."²

While too great credence must not be placed in what Ira Allen found it convenient to say to Captain Sherwood, the above interpretation of what was done in furtherance of the "plan" accords with Luke Knoulton's confessed ambitions. It also ties in with Chittenden's ugly threat in his letter of July 25 already quoted. Except to make Vermont more strong as a British ally or province, and to weaken New Hampshire, Luke Knoulton had no interest in a New Hampshire-Vermont union. Divided between the New York party of Cumberland County, the Marsh, Olcott, Payne, and Woodward party and the Vermont party, the inhabitants of the Grants had far less to offer to Great Britain than if united and harmonious. If Knoulton could be instrumental in bringing these discordant elements together and back into British allegiance, it would be a worthwhile stroke. Even if Ira Allen regarded British allegiance less favorably than did Knoulton, and only as the

¹ *Id.*, p. 147.

² *Vt. Hist. Soc. Coll.*, vol. II, pp. 111-112.

last resort or a temporary expedient, Allen perceived that the consolidation of parties would at least create a much more formidable body and one whose threats of desertion to the British side might more probably extort from the Continental Congress and the other States a recognition of Vermont's independent statehood. Knoulton and Ira Allen might thus from motives not identical work together for the same immediate objective. Furthermore, Allen's statements were made to Sherwood within a few weeks after the events, and not, like the account in his *History*, written seventeen years later. The traitorous aspect of the case from an American standpoint would sufficiently account for Ira Allen's suppression of his own name and that of his friend Knoulton, in a written history which was to be offered for sale in Vermont after the achievement of American independence.

That the foregoing surmises are not far out of the way may be gathered from one of Ira Allen's letters. After the lapse of years; after every known statute of limitations had run and after he had ceased to live in Vermont, Ira Allen felt safe in boasting that the "two persons" between whom at Philadelphia was laid the "plan" for uniting all parties on the Grants were but one person and that he was the one. "When in Philadelphia in September attending Congress," wrote he, "*I concerted the plan of extending claims on the States of New Hampshire and New York, to counteract the claims of said States, to unite political parties in Vermont, with a view to lessen British military measures on the frontiers of Vermont, which enabled General Ethan Allen to make a truce with Major Carleton*¹ in the fall of that year, . . ."

² We may believe him in part if we choose. To the extent that he would make Ethan Allen's truce with the British an event subsequent to the New Hampshire and New York unions of 1781, he is falsifying. He also appears to have forgotten that he had stated on page 158 of his *History* that at Philadelphia was laid the basis for the New Hampshire Union only.

On September 26 Knoulton concluded that the high cost of living in Philadelphia and the unhealthfulness of the city

¹ Major Christopher Carleton of the British Army.

² 3 *Gov. & Coun.*, p. 419.

made it imperative that he should go home.¹ Six days later, on the eve of the day that Major André was hanged for complicity in Arnold's treason, Ira Allen and Bradley notified Congress that they must leave for Bennington to attend the session of the Vermont Legislature to convene on October 12. Their farewell letter to Congress laid on thickly the purpose of Vermont's Assembly to prosecute the war "in conjunction with the thirteen United States" and make "every effort in their power to establish the sovereignty and independence of America."² In its tone their letter contrasted rather too sharply with Chittenden's threat of desertion which Congress had received from their hands. They closed with the questionable and not too detailed announcement that they had "many papers more authentic than those exhibited to Congress that will shew our right to sovereignty over the claims of all our adversaries," but which "we have not here at present." For that reason they asked that Congress postpone further inquiry to some future day.

At the September State election Windsor chose Ebenezer Curtis and Deacon Joel Ely as representatives to the General Assembly. The Legislature having convened at Bennington on October 12, 1780, began its labors as usual by canvassing the votes cast for State officers. The returns showed, as was probably fully foreseen, the re-election of Thomas Chittenden as Governor. Thereupon there occurred an amazing scene which historians have thought without historic significance or too trivial to mention. Appearing before the General Assembly and in the presence of several of the Council, Chittenden "requested the house verbally to accept his resignation of his office as Governor."³ He was dissuaded by the "repeated requests" of a number of representatives and members of the Council,⁴ but there was recorded on the Assembly minutes the statement that he actually sought to be relieved of the position which he had held continuously for two and a half years, and for which he had voluntarily been again a candidate. What doubt, misgiving, or fear had suddenly come over him is now largely a matter of conjecture.

¹ B. H. Hall's *Hist. Eastern Vt.*, p. 382.

² 2 *Gov. & Coun.*, pp. 262-263.

³ *Vt. State Papers*, vol. III, p. 127.

⁴ *Id.*

Chittenden probably knew the contents of the letter of July 25 which somebody—probably Ethan Allen—had drafted for him and to which he had affixed his signature. He knew that that letter threatened Congress with the possibility of Vermont's withdrawal as a belligerent in the American Revolution. He knew, presumably, by word of mouth from Ira Allen and Stephen Bradley the "plan" devised "by two persons at Philadelphia" for Vermont's aggressions on her neighbors if Allen tells the truth in his *History*, and if Allen and Bradley were then apprised of the "plan." Chittenden may also have remembered that in the month of July he had himself sent a letter to General Frederick Haldimand, commander of the British forces in Canada. No letter sent by Chittenden to General Haldimand in July has ever come to light, but both Ethan Allen and Ira Allen more than once asserted that one had been sent.¹ Chittenden himself admitted it.² He may have had some inkling of the secret negotiations soon to take place with the enemy, and to which he was expected to be a party. One thing that Governor Chittenden did know was that General Benedict Arnold had been detected in the crime of treason, had saved his neck by flight, and that Major André, the British *particeps criminis*, had been hanged. A bolder man than Thomas Chittenden, even if technically innocent, might well have preferred to withdraw from public view under such conditions. It would be interesting to discover just what forces blocked his retirement and compelled him to remain as Vermont's nominal chief magistrate.

Windsor, at this critical period of Vermont's history, shared in common with nearby communities the fear of a return of Indian warfare. Down the White River Valley into the towns of Randolph, Tunbridge, Royalton, and Sharon came a band of savages led by a British Lieutenant named Haughton. They burned, they pillaged, they took prisoners. Fears that they would penetrate as far as the Connecticut River were expressed by Joseph Marsh in a letter to Washington.³ "We are in danger of being totally destroyed soon unless assistance is

¹ *Vt. Hist. Soc. Coll.*, vol. II, pp. 63, 118; Allen's *Hist. of Vt.*, p. 169.

² *Vt. Hist. Soc. Coll.*, vol. II, p. 201.

³ *Vt. Hist. Soc. Coll.*, vol. II, p. 74.

granted," he wrote.¹ What Joseph Marsh felt might happen in his town of Hartford could hardly fail to be dreaded in Windsor a dozen miles to the south. Accordingly, on receipt of the alarm from Royalton, Captain John Marcy with twenty-nine men, most of whom were recruited in the East Parish of Windsor, started for the relief of the White River Valley on October 16.² A few days later Lieutenant Asahel Smith followed with a company of thirty-three mostly from the West Parish.³ Sharon, however, was the most southeasterly town reached by Haughton's expedition which presently retired to the northward.

Another item of local interest in 1780 was a two days' visit to Windsor by Lieutenant-Colonel Joseph Safford, who said he was "on the trail of Tories"⁴ but who did not report having apprehended them.

To Vermont's real leader, acknowledged as such by his countrymen and the enemy alike, there now came on the evening of October 28, 1780, at Castleton a British spy. Without disguise, of features well known to many of the inhabitants of Vermont, proscribed as a Tory under Vermont's Banishment Act of 1779, Captain Justus Sherwood under the protection of a British flag of truce sought and obtained on behalf of General Haldimand a private interview with Brigadier-General Ethan Allen. The story of this amazing exploit, with the shadow of André's gallows in the not remote background, is detailed in full in Sherwood's official *Journal*.⁵

The daring of Justus Sherwood and Ethan Allen in actually discussing in secret conversation a plan for bringing over Vermont to the British side is one of the high and glaring spots in Vermont's hectic history. Allen, of course, acted his part in his own typical style. He would be no party to any "Damn^d Arnold plan to sell his country and his own honour by betraying the trust repos^d in him,"⁶ was determined to be "govern^d by the strictest sense of honour & justice"⁷ and asserted that he valued the liberty of Vermont's people above his own life.⁸ Nevertheless, since Sherwood's proposals seemed to General

¹ *Id.*² Goodrich's *Vt. Rev. Soldiers*, p. 260.³ *Id.*, p. 199.⁴ *Id.*, p. 724.⁵ *The Vermonter*, vol. XXVIII, pp. 76-82.⁶ *Id.*, p. 76.⁷ *Id.*, p. 77.⁸ *Id.*

Allen to concern the welfare of all Vermont, he vouchsafed seriously to consider them.¹ General Allen not only did not spurn the British emissary, but announced that in the event that Congress refused to recognize Vermont's independence and decided in favor of New York, Vermont would declare herself a neutral power. This, Allen said, would bring an attack from Congress and when a force should be raised by Congress against Vermont he would march with his own brigade to take Albany, would summon to his aid the militia of Berkshire County, Massachusetts, and, if necessary, would call for support from General Haldimand.² A modern American newspaper, bent merely on "circulation," could hardly have boasted a loftier altruism on its editorial page than did Ethan Allen in protesting the purity of his motives. Pharisee or patriot, hypocrite or hero, view him as we will, we must admit the daring of Ethan Allen in putting his neck into a noose in his efforts to shape the destiny of his State.

In that series of conferences between Ethan Allen and Justus Sherwood were laid the plans for the subsequent famous *sub rosa* correspondence between Allen's group and the British in Canada. The immediate fruits of the Castleton conferences were the recalling of Vermont's scouting parties, the discharge of the militia and volunteers, the practical ending of Vermont's participation as a belligerent in the American Revolution,³ and consequent dismay and indignation on the part of the better sort of army officers. As a matter of fact, Vermont, according to an official report dated October 16, then had under arms only two hundred and thirty men,⁴ exclusive of those in the Continental service.

While Ethan Allen—to use General Bayley's language—"had made peace for Vermont,"⁵ Luke Knoulton was busy in Cumberland County. On October 31, at a meeting of town committeemen of the New York party, we find him heading the list of a special committee of thirteen among whom were such

¹ *Id.*

² *The Vermonter*, vol. XXVIII, pp. 77-80.

³ 1 *Gov. & Coun.*, p. 262.

⁴ One hundred and fifty in the garrisons at Castleton and Pittsford: eighty in the garrisons east of the Green Mountains. (*Vt. State Papers*, vol. III, p. 131).

⁵ 2 *Gov. & Coun.*, p. 444.

well known characters as Micah Townsend of Brattleborough, Charles Phelps of Marlborough, Hilkiah Grout of Weathersfield, and Simon Stevens of Springfield. The purpose of this special committee, says B. H. Hall, was to devise measures for uniting in one political body all the inhabitants between the Green Mountains in Vermont and the Mason Line in New Hampshire.¹

This plan is suggestive of the concession proposed to Governor Clinton by Floyd, Livingston, and l'Hommedieu earlier in the year without mention of a possible annexation by the government of New Hampshire. It was very likely on all fours with the arrangement which Colonel Peter Olcott and Bezaleel Woodward would have preferred if thought attainable.² Micah Townsend, who theretofore had been most steadfast for the re-establishment of New York's control in Vermont, wrote Governor Clinton as early as April 12, 1780, that a number of the committeemen "begin to think seriously of Messrs. Olcott & Woodward's Plan."³ At this period, as Doctor Samuel Williams asserts, "Most of the inhabitants of the towns in the western parts of New Hampshire were desirous of being annexed to the government of Vermont."⁴ Natural as that feeling may have been it is not likely that they or any considerable number of their neighbors on the east side of the Connecticut entertained a belief that such a re-annexation was likely in view of the harsh, abrupt, and definite severing of the first union by the Act of the Vermont Legislature in February, 1779. Professor Woodward thought in July, 1780, that his constituents had practically given up hope of there being any New State.⁵

Following the appointment of Luke Knoulton's committee came three conventions in short order: the first at Charlestown, New Hampshire, on November 8; the second at Walpole, New Hampshire, on November 15; and the third at Charlestown, on January 16, 1781. The last was attended by delegates

¹ B. H. Hall's *History of Eastern Vt.*, p. 401; 2 *Gov. & Coun.*, p. 488.

² 2 *Gov. & Coun.*, pp. 242, 252, 253; 8 *Gov. & Coun.*, p. 407.

³ *Papers of George Clinton*, vol. V, p. 616.

⁴ Williams's *History of Vermont* (1st ed.), p. 258.

⁵ 8 *Gov. & Coun.*, p. 407.

from no less than forty-three towns on both sides of the Connecticut. Among the number were Luke Knoulton, Micah Townsend, Colonel Elisha Payne, Bezaleel Woodward, Colonel Peter Olcott, and—remarkable to relate—Assemblyman Ebenezer Curtis, of Windsor and that uncompromising Loyalist Colonel Samuel Wells of Brattleborough, heretofore designated as "Judge" Samuel Wells. It was truly a convention "to unite all parties." Although unanimity was hardly to be expected out of the discordant elements, among which were men of such rectitude and standing as Samuel Hunt of Charlestown, Benjamin Bellows of Walpole, and Samuel Chase of Cornish, the convention did reach an agreement, despite the protest of eleven dissentients, to open negotiations for a new union with Vermont at the coming February session of Vermont's Assembly.¹ For that purpose the convention then adjourned to re-assemble at the meeting-house in Cornish opposite Windsor on the first Wednesday of February.

Writing of the last Charlestown convention after a lapse of seventeen years, Ira Allen pictures himself as solely responsible for making the delegates re-consider a previous decision to unite or attempt to unite all of the New Hampshire Grants to New Hampshire. The result of the original decision, if acted upon by all constituencies, would have been as he says, "to annihilate the State of Vermont."² It is a fact that Ira Allen, having become involved in General Ethan Allen's secret negotiations with the British, did attend the convention in Charlestown in January, 1781, and did surprise some of the delegates by telling them that Vermont would be willing, in spite of its previous stand, to receive into its jurisdiction the New Hampshire towns lying west of the Mason Line. This was what, as Doctor Williams tells us, most of the inhabitants of those towns desired,³ but had despaired of getting. Even if the delegates knew Ira Allen too well to rely on his word it was apparent that no great harm would result from a month's adjournment in order to put his word to the test. With those delegates who were not prompt to be caught by the proposal he tells of having put to them certain other arguments which had effect. He had

¹ 2 *Gov. & Coun.*, pp. 280-283.

² Allen's *History of Vt.*, pp. 147-148.

³ Williams's *History of Vt.*, 1st ed., p. 258.

found, he says, on arriving at the convention that "a number of Tories were members."¹ To these he says he "hinted" "Vermont's plan of neutrality, and to others the advantage of joining Vermont, by which they would evade a large burden of taxes. By those insinuations," according to what he confided to Captain Sherwood, he "soon gained over a majority of the convention in favor of Vermont."² It is not a particularly edifying story nor, in view of the source, can it be confidently accepted as true in all respects. Nevertheless the convention did conclude to try to effect a new union with Vermont and did succeed.

By this time all well informed persons in New England and elsewhere had heard rumors of Ethan Allen's transactions with the British. The exact facts, of course, were not known; yet enough had been said to induce at least two Vermonters to prefer charges against him in the Vermont Assembly. Contemporary opinion seems to have been unanimous that there would be no bona fide trial of the charges. The records of the Assembly come pretty near proving the soundness of such opinion, especially since whatever portions of the charges and testimony that had been reduced to writing were conveniently destroyed. General Allen professed to be enraged at the accusations, suited his own whim in attending or withdrawing from the Assembly sessions when the charges were under consideration, successfully obtained an acquittal, and finally forced upon the Assembly the acceptance of his resignation as Brigadier-General with "the thanks of this House to Gen^l Ethan Allen for the good services he has done this State since his appointment of Brigadier General."³ While the failure of the charges and the acceptance of his resignation, both of which took place on November 7, 1780, left him even more free than before to guide Vermont's political affairs and safer from court martial, it must be confessed that in some quarters his reputation for integrity had been permanently impaired. The cloud that

¹ *Vt. Hist. Soc. Coll.*, vol. II, p. 111. He mentions specifically Colonel Samuel Wells, of Brattleborough, and Judge Daniel Jones, of Hinsdale. He also—perhaps falsely—mentions Colonel Peter Olcott, but carefully omits the name of Luke Knoulton.

² *Id.*

³ *State Papers of Vt.*, vol. III, pp. 170-171.

now hung over him probably shadowed to some extent his brother Ira and anybody else who was suspected of complicity in the irregular intercourse with the enemy.

Windsor, at this stage, began with increased force to attract new inhabitants. People outside Vermont were hearing of Windsor as the chief political center of the New State. The West Parish in particular had gained many new residents as may be seen by Captain Samuel Stow Savage's list of his militiamen called out on occasions in the months of August, September, and October, 1780.¹ Briant Brown, who moved over from Cornish, we have already mentioned. The new Colonel of the Third Vermont Regiment, Ebenezer Wood, had become a Windsor citizen and was promptly honored by election to the offices of selectman and moderator. Most important of all of the new recruits was Stephen Jacob, who, after two years of reading law with the eminent and cultured Theodore Sedgwick at Sheffield or Great Barrington in Massachusetts, had concluded to hang out his shingle in the East Parish of Windsor. Stephen Jacob may, perhaps, be termed the first of the "nice people" to become actual residents of Windsor. The term will not be misunderstood; it carries no implication that he was faultless or that others who had lived there longer were not as well endowed with Christian virtues. His name comes first in the list of "remarkable men" who, according to Horace Everett, junior, gave lustre to the town of Windsor from the years 1780 to 1830.² Stephen Jacob had come from four years of college life at New Haven and,—perhaps still more to his advantage—from two years of sojourn near a distinguished couple who afforded to him as fine a pattern of the American gentleman and gentlewoman as could be found on the North American continent. These were Theodore Sedgwick, described not too generously as "a magnificent type of physical manhood, the face of one accustomed to command and sneer down opposition,"³ and Mrs. Sedgwick, "a woman of elegance and refinement, typical of the best New England could offer in a matron."⁴

¹ Goodrich's *Vt. Rev. Rolls*, pp. 539-540.

² *The Centennial at Windsor*, p. 21.

³ *Jefferson and Hamilton*, by C. G. Bowers, p. 134.

⁴ *Id.*

Stephen Jacob let no grass grow under his feet. During the October session of the Assembly at Bennington, although he was not a member of the Legislature, he was present making acquaintances and picking up business. Here he may have gained his first retainer as a lobbyist. His education was recognized when he received an appointment as one of a committee to draft a legislative bill for disposing of confiscated estates. With his Yale friends, Noah Smith and Ezra Stiles, he secured similar employment at the adjourned session at Windsor. He soon did duty as a militiaman in Captain Marcy's Windsor company. To the office of lister, which in the judgment of the Windsor people was the only one in which an education was especially useful, he won an election at an early date.

Coming to Windsor with Stephen Jacob or soon after him was his brother-in-law Daniel Farrand, a Yale graduate of the class of 1780, who had determined to become a Vermont lawyer. Before this, practically without exception, there was nobody in Windsor above what Jeremiah Mason called the "ordinary caste." A Windsor maiden prior to 1780 could have sung with Gilbert :

"The sons of the tillage
Who dwell in the village
Are people of lowly degree—degree.
Though honest and active
They're most unattractive
And awkward as awkward can be—can be."

But with the coming of Stephen Jacob came the dawn of that cultural development in Windsor which eventually made the place more famous than all its political prestige. Little by little he and people of similar quality and station who followed him to Windsor in the years after 1780 emancipated the community from the enforced and unnatural social equality of a new settlement until what the candidates for elective offices still miscall "democracy" was well shattered beyond mending. Some of the sons and daughters of the older Windsor families had the ambition to recognize and embrace the opportunity for social improvement. These joined hands with the newcomers in creating the Windsor society which, primi-

tive and simple though it was, came to be Windsor's chief pride and innocently caused apprehension in the breast of dear, old, narrow, "democratic" Zadock Thompson.¹

Windsor's year of 1780 closed with a "war meeting" at the house of Jeremiah Bishop, "Innholder." At this meeting, called to see if the town would furnish a certain "provision tax" voted by the Legislature as a war measure, Colonel Ebenezer Wood was in the chair. Obediently the town voted the tax and appointed to raise it a committee of two in each parish: for the West Parish, Deacon Joel Ely and Captain Samuel Stow Savage; for the East Parish, Captain John Marcy and Captain John Benjamin. The only other business was the appointment of a committee of five to meet with a similar committee from Reading to fix the boundary between the two townships. "Cap^t." Ely, Richard Wait, Briant Brown, Ebenezer Curtis, and Joseph Thomson were Windsor's committee-men.

The "provision tax" mentioned in the preceding paragraph was perhaps the first direct tax laid by the State of Vermont. It is worthy of brief consideration here because by the terms of the statute imposing it the comparative importance of the town of Windsor at that period may be measured. The statute, which was enacted at the Bennington session, October 25, 1780, bore the title "An Act for the purpose of procuring Provision for the Troops to be employed in the service of this State for the year ensuing."² Its scheme was to raise, under the supervision of a commissary-general, by enforced levy on the separate towns, certain specified aggregates of beef, pork, wheat flour, rye, and corn. The statute named every Vermont town, not then within the British lines, fixed the amount of each of the designated commodities which each town must contribute, invested the selectmen of the respective towns with authority to lay local taxes in order to meet the several town quotas as allotted by the statute and made the selectmen liable for the required results. Each town was obliged to deliver its goods packed in barrels identified "with the same mark as is established by law to brand their horses."

¹ Thompson's *Vermont*, part II, p. 212.

² Slade's *Vt. State Papers*, pp. 407-411.

By calculation we find that under the "provision tax" the towns west of the Green Mountains were liable for a total contribution of something over 43 per cent of each commodity, while the east-side towns were liable for something over 56 per cent. In the allotment of separate town quotas Windsor's obligation was to furnish 11,813 pounds of flour, 3,937½ pounds of beef, 1,969 pounds of pork, 324 bushels of corn, and 162 bushels of rye. It was by far the heaviest quota imposed on any east-side town and was exceeded on the west side only by Bennington's and Shaftsbury's. Whether the apportionment of the levy depended on estimated population or on estimated wealth or on a combination of both factors does not appear. In any event, the recognition of Windsor's consequence and resources is marked.

CHAPTER L

VERMONT BECOMES IMPERIALISTIC

OF the motives underlying the proposed consolidation of all of the New Hampshire Grants into one government, it is perhaps impossible to speak with certainty. One would prefer not to stress as causes the desire on the part of some of the inhabitants of Cheshire and Grafton Counties to escape further participation in the Revolutionary War, or the desire on the part of others to avoid responsibility for the payment of war debts already incurred. There was a note of sincerity in the plea of the Woodward and Olcott party that all the New Hampshire Grants, having been settled at approximately the same period and by people of similar origin, pursuits, and manners, should not be separated by the Connecticut River into two governments. It was more comfortable to have them united than disunited: the River, unlike a mountain range, was not a normal or convenient boundary. Although different arguments weighed with different men, the idea of uniting all the Grants in one new State was four years old, had had the constant support of substantial men, and was founded on rational views. It is not unlikely that, among other contributing causes, the economic soundness of the measure was the greatest force in bringing about the expansionist policy which presently prevailed for a season in Vermont.

The motives which actuated Luke Knoulton and Ira Allen to favor the union have already been discussed; but there were others on the Vermont side who, innocent of any intrigue with the British, hoped that if the inhabitants of western New Hampshire were admitted, the recalcitrant towns in the southern part of Cumberland County might become willing to trust themselves to Vermont's jurisdiction. All hands must have recognized that Vermont was weak as long as the New York party in Cumberland County remained independent of Vermont. It was a matter of prime importance to make the whole of that county solid for Vermont. Therefore the immediate

task of Vermont's politicians had been to engender a belief that if a greater preponderance of political power in Vermont's government could be lodged on the east side of the Green Mountains through the admission of the New Hampshire towns, the New York party in Cumberland would feel safe in casting their lot with Vermont. Not only was this belief now entertained in Vermont, but the force of the reasoning appealed even to Governor Clinton, who felt that if Vermont's statehood must ultimately be recognized, it would be far better to have Vermont more largely controlled by the people of New Hampshire and southern Cumberland County and less by characters who had become so offensive to him.¹

Windsor was the scene of the lively negotiations which resulted in the new union of the New Hampshire Grants. At the meeting-house in Windsor on Wednesday, February 7, 1781, the General Assembly of Vermont met for an adjourned session with Captain Ebenezer Curtis, Windsor's senior town representative, as Clerk *pro tem*. On the same day, at the meeting-house in Cornish, assembled for an adjourned session, the Convention of New Hampshire towns west of the Mason Line,² with Captain Samuel Chase, of Cornish, as chairman. Direct bargaining between the two assemblies began on the afternoon of February 8, when Colonel Elisha Payne, heading a committee from the Cornish Convention, came over to Windsor bearing a letter and resolutions. Only a year earlier Colonel Payne had had the honor of being accused by Vermont publicists as a chief trouble-maker and a disseminator of misrepresentations. In February, 1781, Vermont received with open arms this same man, who had altered his schemes in no respect except to make them broader and more dangerous.

For six days the Governor and Council and the Vermont House of Representatives, sitting as a Committee of the Whole, considered Colonel Payne's proposals. On February 14 a sub-

¹ *Clinton Papers*, vol. VI, p. 745.

² The Mason Line was the supposed western boundary of a grant made to John Mason in 1629. Its course lay on a curve which may be described as passing along the eastern lines of the New Hampshire towns of Richmond, Swanzey, Keene, Marlow, Lempster, Wendell, Springfield, Grafton, etc. (See George B. Upham's learned paper in *The Granite Monthly*, vol. LII, no. 1, p. 19.)

committee of seven, appointed two days earlier and headed by Joseph Bowker, reported to the "grand committee" that the State of Vermont ought to "lay a jurisdictional claim to all the lands situate east of Connecticut River, north of the Massachusetts, and south of latitude 45," but not to exercise jurisdiction for the time being. This amazing recommendation, if interpreted literally, contemplated Vermont's eventual conquest of all of New Hampshire except the tiny tip projecting north of Vermont's northern boundary. The proposal seems to have gone far beyond what was invited by the New Hampshire delegates at Cornish. These delegates were representatives of towns lying to the west of the Mason Line and, so far as the record shows, had made no overtures to Vermont respecting eastern New Hampshire.

The report of the sub-committee contained other new matter almost as startling. It advised that Vermont should lay a jurisdictional claim to that part of New York lying north of Massachusetts and east of mid-stream in the Hudson River. It is likely that favor only prevented a third proposal to annex Berkshire County, Massachusetts. The inhabitants of Berkshire County, according to Ethan Allen, were "very anxious to join and make a part of Vermont."¹ Massachusetts, however, had been friendly, had not pressed her claims to part of Vermont, and was believed to be a supporter of Vermont's right to independence. The omission, under such circumstances, to propose annexation of western Massachusetts gives point to the threat of aggressions on New Hampshire and New York.

In giving reasons for the proposed annexations the sub-committee was not conspicuously frank or truthful. It put the dissolution of the first New Hampshire union on the flimsy ground that the soil of the sixteen annexed towns was less fertile than Vermont and that Vermont was unwilling to have a controversy with a neighboring State. It overlooked the fact that the Vermont Legislature in 1779 had ruled that the annexed towns belonged to New Hampshire as a matter of right. The committee attempted to justify the new conquest on the theory of a reprisal, first, because of the action of New Hampshire's Legislature in instructing her agents at the Continental

¹ *The Vermonter*, vol. XXVIII, p. 79.

Congress to make claim to Vermont and, second, because New Hampshire had "endeavored to support internal broils" in the eastern part of Vermont, apparently with a view to extending New Hampshire's jurisdiction to the west of the Connecticut River. The committee advanced as the last and least important reason for the new union the fact that the inhabitants of the New Hampshire towns lying west of the Mason Line desired it. This reason, however, had the merit of honesty.

Not more impressive are the pretexts for taking control of a part of New York. They consist merely of the ancient grudge; the weak defence maintained by New York against British invasion and the correspondingly increased burden imposed on Vermont's military department; the failure of Governor Clinton to answer a letter of Governor Chittenden's which demanded New York's relinquishment of all claim to Vermont; and, last, the fiction that Vermont and the contiguous parts of New York were Philip Skene's province by royal patent and not even as a matter of law a part of New York. The committee's report as a whole is a studied piece of pettifoggery and a jockeying for position in a programme of political conduct wherein the draftsmen themselves doubted the morals. It was accepted by the Vermont Legislature on February 14 without a roll-call. On the same day the Legislature passed resolutions that the jurisdictional claims should be made and that the committee's report should be submitted to the Cornish Convention.

The delegates at Cornish were prompt in action. On February 15 a committee sent by them to Windsor appeared before the Legislature with a request (it seems) that the inhabitants of the New Hampshire Grants lying west of the Mason Line and east of the Connecticut River be received "into union with" Vermont. The following day a committee of the Vermont Assembly recommended the granting of that request if a safe and beneficial plan could be agreed on. With the Assembly's immediate acceptance of this suggestion the idea of annexing eastern New Hampshire seems to have been forgotten. Later in the day a draft of an agreement, drawn up by the New Hampshire men, to be entered into between the Convention and the Assembly came before the latter body for discussion.

Debate on this document continued until the 20th. This agreement was obviously intended more as a means of reaching an understanding of preliminaries than as a code of rules to govern the management of the union. Colonel Payne appears to have called it a treaty.¹ Its text, which may be found in *Slade's State Papers*, beginning at page 132,² contains one noteworthy set of items in articles 5, 6, 8, and 9, which provide for the future immunity of those who had been supporters of New York. That proposals of such nature should have emanated from Cornish, New Hampshire, is more remarkable than that they secured the acquiescence of the Vermont Assembly. It shows that interests in addition to those of western New Hampshire were represented and influential in the Cornish Convention.

As a part of the treaty it was stipulated that the union should become effective on condition that a major part of the towns in Vermont and two-thirds of the towns east of and within about twenty miles of the Connecticut River should vote in favor of the union before the first Wednesday in April. On the likelihood of the union being ratified by the referendum vote the New Hampshire towns as well as unrepresented Vermont towns were warned to elect assemblymen who would be ready to take their seats in the Vermont Legislature as soon as the ratification of the union should be promulgated. Another salient feature of the preliminary stipulations of the union consisted of the two following articles proposed by Vermont's Assembly Committee and agreed to by the Cornish Convention's committee:

"Art. 1. That the independence of the State of Vermont be held sacred; and that no member of the Legislature shall give his vote or otherwise use endeavors to obtain any act or resolution of Assembly, which shall endanger the existence, independence or well being of the state, by referring its independence to the arbitrament of any power.

"Art. 2. That whenever this state becomes united with the American States, and there shall then be any dispute between this and either of the United States, respecting boundary lines,

¹ 2 *Gov. & Coun.*, p. 292.

² See also 2 *Gov. & Coun.*, p. 289, *et seq.*

the Legislature of this state will then (as they have ever proposed) submit to Congress, or such other tribunal as may be mutually agreed on, the settlement of any such disputes."

These striking provisions, which were also incorporated verbatim into the terms of the subsequently arranged treaty with the towns of eastern New York, have been interpreted by so learned a commentator as Governor Hiland Hall as evidence that the two unions were to be but temporary.¹ Although it is a fact that Moses Robinson of Bennington has been quoted as making the almost contemporary observation that it was Vermont's intention "to take the East side of the River only to get Rid of them the first opportunity"² it is difficult to believe that the Vermontese as a body were guilty of such perfidy. It would have run counter to an elaborate defence of the unions as prepared by Ethan Allen in collaboration with others³ and is equally inconsistent with the opinions professed by Ira Allen in his *History of Vermont*, published in 1798.⁴ Moreover, whatever the implications to be drawn from the literal wording of the two articles under discussion, it is hard to believe that an intention such as that mentioned by Moses Robinson could have been generally entertained in Vermont and by Vermont's Council and Assembly and at the same time kept secret not only from the representatives of the Cornish Convention and the members of the New York party in Cumberland County, but also from the inhabitants of eastern New York who presently and in good faith and on like terms joined forces with Vermont.

The treaty of union with the New Hampshire towns, although the great transaction of the Windsor legislative session of February, 1781, was not of lasting results. Another measure, which had been agitated on a previous occasion and now was put through, had a degree of permanence. It consisted in the creation of Windham, Windsor, and Orange Counties out of what had been Cumberland County. The town of Windsor, as was natural, was designated as the place for holding the sessions of the courts of Windsor County and thereby became

¹ *Vt. Hist. Soc. Coll.*, vol. II, p. 100.

² *8 Gov. & Coun.*, p. 424.

³ *2 Gov. & Coun.*, pp. 355-363.

⁴ Allen's *History of Vt.*, pp. 213-214.

the shire town. It also was selected as one of the points for the delivery and storage of wheat accepted in payment by the State for township charters granted.¹ Similarly, the Vermont Board of War named Windsor as one of four places "for Repositing Provisions."² Major Benjamin Wait of Windsor, who seems to have continued as sheriff of Cumberland County until February 23 was now succeeded by Briant Brown of Windsor whose term of office was to end when the officers of the three new counties were selected and qualified. Deacon Joel Ely and John Throop became his bondsmen in the sum of one thousand pounds. Briant Brown was also designated as the first Clerk of Windsor County but declined the office.

The Vermont Legislature wound up the session on February 23, probably in ignorance of the fact that New York's Legislature had all but committed itself to a step very favorable to Vermont's aspirations. On February 21, the New York State Senate with but one dissenting vote had passed a resolution that it was inexpedient longer to claim jurisdiction over Vermont. New York's House of Representatives was apparently on the point of acquiescing in the proposal when Governor Clinton, in the nick of time, halted the capitulation by a threat to prorogue the Legislature. Writing of the episode some weeks later, Clinton expressed his conviction that "an old friend of ours"—very likely General Philip Schuyler—had been promoting the idea of a cession to Vermont since the preceding autumn and that on the eve of the New York legislative session, following the receipt of Governor Chittenden's demand that New York surrender her claims, there had been very industrious and effective circulation of the argument that Vermont would not participate in defending the northern borders against the British unless New York agreed to Vermont's independence. So sure were some of New York's politicians that an adjustment would be made that Clinton suspected them of having begun to speculate in Vermont lands.³ It does not appear that the New Yorkers were at this time aware that Vermont's share in protecting the frontiers against the enemy was more likely to take the shape of a truce than forts and troops.

¹ 2 *Gov. & Coun.*, p. 75.

² *Id.*, p. 76.

³ *Public Papers of George Clinton*, vol. VI, pp. 742-743.

Windsor's March meeting for the year 1781 came late. The record, which seems to be quite full, gives the date as the 27th and shows a great number of citizens elected to office. Deacon Joel Ely, who had been one of Windsor's representatives in the late important session of the Legislature, was elected moderator and chosen as one of the five selectmen. Ebenezer Curtis, his colleague in the Assembly, was also elected a selectman and was re-elected as town clerk. The influence of Parsons Tullar and Chapin may account for Windsor's increasing the number of tythingmen to four in 1781. For this office the town made choice of Solomon Emmons, Elnathan Strong, Andrew Blunt, and Seth Bishop. The town meeting of 1781 was also noteworthy for the election of a school committee in each parish: for the "East Society," Captain John Marcy, Colonel Nathan Stone, Samuel Patrick, and Joel Butler; for the "West Society," Deacon Joel Ely, Charles Leavens, and Jerahmeel Cummins. This honor for Colonel Stone and his election as a surveyor of highways indicate that for some reason or other his fellow townsmen had grown to feel more charitably disposed towards him. The explanation of this may appear a little later.

Three days after the town meeting came a meeting of the "Authority," consisting of the Board of Selectmen, the two constables and the two grand jurors. These officials voted Alexander Parmelee "in nomination for to keep a Publick house" and Captain Steel Smith and Jeremiah Bishop "in nomination" for tavern keepers,¹ thus providing that the respective nominees could come before the County Court in the following June as applicants for licenses for the ensuing year. Although the records of the Cumberland County Court under the Provincial Government of New York contain several entries of licenses granted in Windsor, the earliest record of the town's action by its Board of Civil Authority or otherwise, in a matter of this nature, is that of March 30, 1781, as given above.

At the same meeting the Board of Civil Authority decided to divide the town into seven "surveyors' districts." The

¹ The Act of February, 1779 (Slade's *State Papers*, p. 370), seems to contemplate the possibility of a distinction between "taverns" and "public houses," but does not make the distinction clear.

purpose of so districting the township, while not explained in the minutes, may have been intended to divide equitably and conveniently the responsibilities of the men who had been elected surveyors of highways, but more likely it was to assign to groups of the inhabitants, according to the localities in which they resided, the particular portions of the highways which each group should be charged with keeping in repair. In the East Parish there were to be three districts, viz., the South District, from the south line of the town to Mr. Tullar's;¹ the North District, from Mr. Tullar's to the Hertford (Hartland) line; the West District, "extending westerly from the Town Street, so called, . . . to the West Parish Line."

In the West Parish there were to be four districts. The first of these, called the South District, seems to have been bounded as follows: beginning at Captain Samuel Stow Savage's; thence apparently westerly, to Major Benjamin Wait's; thence, along "the same course" to the west line of the township; thence, south to the southwest corner of the town; thence, east along the town's south line to a point south of Captain Savage's; thence, north to the place of beginning. The North District which, seemingly, was not contiguous to the South District, included that portion of the "Woodstock Road" to the north of Mr. Chapin's² and "all the inhabitants on and east of said road." The "Woodstock Road" was obviously a road running about north and south and must have been the western boundary of a district which touched the northeast corner of the Parish. Between the north and south districts of the West Parish came the West District, which extended easterly as far as Roswell Smith's. The East District lay north of a portion of the South District and cornered both at Mr. Chapin's and Benoni Patrick's. The blindness of the descriptions is due in part to the comparatively few highways then in existence and in part to our present ignorance of just where those highways ran. Except for a main thoroughfare leading west by way of what was later called Sheddsville, and a branch road leading north to Woodstock, we cannot be sure what roads had then been opened.

¹ Approximately the south corner of Main and State Streets.

² Either Calvin Chapin or Rev. Pelatiah Chapin.

Copious as were the records made by Ebenezer Curtis, town clerk of Windsor, for the year 1781, they omit all reference to Windsor's referendum vote on the question of the proposed second New Hampshire union. That Windsor voted in favor is established by the journal of the Assembly.¹ In taking this position Windsor conformed to the opinion of the overwhelming majority of the towns represented in Vermont's Legislature, although the union was not endorsed by the votes of most of the Vermont towns in the immediate neighborhood. For instance, Hertford (Hartland) and Woodstock voted against it, Weathersfield, Hartford, and Cavendish sent in no opinion, and Springfield was not accounted for. The town of Reading stood with Windsor.

The sentiment in favor of the union was pretty nearly unanimous in western New Hampshire: no less than thirty-five New Hampshire towns voted for the proposal, and none was recorded against it. So prospered the plan "to unite all parties" that Vermont's Legislature at its adjourned session in Windsor in April, 1781, admitted as assemblymen about forty men from east of the Connecticut River, and, for the first time, some representatives from Brattleborough and Hinsdale (Vernon). In addition to these new members, Vermont had the satisfaction of welcoming back into the fold General Jacob Bayley's town of Newbury. Most significant, perhaps, of all the local elections was that in Brattleborough. That town actually chose as one of its representatives Colonel Samuel Wells, an outstanding and uncompromising Loyalist; and the Legislature received him without a murmur.

The session of the Legislature at Windsor in April, 1781, lasted only from the 4th to the 16th, but in that short space of time much besides augmenting the number of the assemblymen took place. Washington County was erected out of the towns of southwestern New Hampshire and incorporated as a part of the State of Vermont; New Hampshire towns opposite the present Windsor County and north of Claremont, Newport, Unity, and Wendell became a part of Windsor County; Orange County was made to include other New Hampshire towns. The Legislature now developed a surpris-

¹ *Vt. State Papers*, vol. III, part 2, pp. 213-214.

ing toleration towards Quakers by permitting such "to wear their hats in this House"; yet it refused to acquiesce in Hartford's desire to substitute for her sitting representatives Stephen Tilden and former Lieutenant-Governor Marsh, who had become reconciled to Vermont. It recommended that the New York towns lying to the west of Vermont should meet in convention to see if they could agree to a union with Vermont, and, if so, to elect representatives to sit in Vermont's Assembly. The resolution embodying the foregoing recommendation was the subject of debate and division. In favor were forty-eight yeas: in opposition thirty-nine nays. All representatives from the west side of the Green Mountains—eighteen in number—together with twenty-three east-side members and seven assemblymen from New Hampshire cast the majority vote. Twenty-seven New Hampshire representatives and twelve Vermonters from towns east of the Green Mountains were counted in the negative. Windsor's vote was divided: Deacon Ely for and Captain Curtis against. Colonel Samuel Wells, of Brattleborough, was among those voting "yea." He and the unsavory Matthew Lyon were then appointed a committee to draw a bill in conformity to the resolution.

Among the three brigadier-generals chosen by the Legislature at this session, Ethan Allen, in spite of the gossip and in spite of his previous resignation, was elected to command the First Brigade. For soldiers to defend the State "against the common Enemy" the Legislature deemed fifteen hundred men necessary. These troops it proposed to raise as volunteers at a contemplated cost of thirty thousand pounds. Ebenezer Curtis received appointment as one of a committee of six to devise the means of supplying the State Treasury with funds for this purpose. The resulting revenue law provided for the emission of something over twenty-five thousand pounds in paper currency to be redeemed in part by a tax of one shilling and three pence on "polls and rateable estates" and in part by a land tax of ten shillings on each privately owned one hundred acres, which, under the existing condition of war, might be capable of settlement.

Colonel Seth Warner, who had heard enough rumors of Ethan Allen's double dealing, had interviewed him face to

face and had charged him with receiving private letters from the British.¹ After first denying the accusation, Allen admitted that he actually had received two such letters signed by Colonel Beverly Robinson, a regimental commander of the Loyalist forces. His hand having thus been forced by Colonel Warner, Ethan Allen hit upon the expedient of forwarding both of Robinson's letters in his own now famous letter to the Continental Congress. He wrote to the Congress that the Robinson letters were the only ones he had ever received from "him," and that he had made no reply to them, but he omitted all reference to his own secret interview with the enemy's messenger, Captain Justus Sherwood, at Castleton, in the preceding autumn. Thus, while Allen's tone towards Congress spoke the almost perfect patriot, it served as a sort of blind to hide what he had actually done. Nor was that the only touch of adroitness in his communication: he still left open for himself and his followers an avenue for retreat to British protection by insisting that if Congress should continue to refuse to admit Vermont into the Union as a separate State "Vermont has an indubitable right to agree on terms of cessation of hostilities with Great Britain."² He closed his remarkable letter with this characteristic flourish: "I am as resolutely determined to defend the independence of Vermont as Congress are that of the United States, and, rather than fail, will retire with hardy Green Mountain Boys into the desolate caverns of the mountains and wage war with human nature at large."³

How Congress or Vermont took this drunken or megalomaniac outburst can only be surmised. The times were not such that people could laugh carelessly. Ira Allen seems to have accepted his brother's turgid nonsense as a really serious proposal. The Vermontese, Ira thought, would, if disappointed in their hopes, "return to the Mountains, turn Savages and fight the Devil, Hell and Human Nature at Large." Captain Sherwood, to whom he confided this enlightened programme, smilingly refused to admit its practicability.⁴ At this period

¹ *Public Papers of George Clinton*, vol. VI, p. 777.

² *Vt. Hist. Soc. Coll.*, vol. II, p. 105.

⁴ *Vt. Hist. Soc. Coll.*, vol. II, p. 110.

³ *Id.*

the "state of society," as Doctor Samuel Williams would have called it, may be illustrated by the fact that Governor Chittenden presented to the Legislature at Windsor on April 12 a copy of Ethan Allen's letter to the Continental Congress and a copy of the two letters from Beverly Robinson, in order to show how spotless had been Ethan Allen's virtue. Not even the fact that two such characters as Ira Allen and Matthew Lyon had certified to the "truth" of the copies seems to have caused the Assembly to suspect the real situation. It is really difficult to understand how Vermont's House of Representatives, if genuinely in sympathy with the Revolutionary cause, could have swallowed such an artifice as that practiced by Governor Chittenden, or how the House could have passed a vote of confidence and approval. Yet that is what Chittenden succeeded in gaining in behalf of Ethan Allen, the Governor, and the Council.¹ And such a vote was of service in safeguarding necks and reputations.

Besides Colonel Samuel Wells's elevation and Ethan Allen's correspondence there were plenty of other symptoms to lead a jealous and vigilant revolutionist to suspect that Vermont was on easy terms with Britain. Of course, General Bayley went so far as to believe that treason was in the air.² Beverly Robinson, as colonel of the Loyalist forces in New York, wrote to General Haldimand of the British Army that "Colonel Wells of Brattleborough has sent his son-in-law with verbal information that throws great light upon the conduct of Vermont."³ Of the several sons-in-law of Colonel Samuel Wells, there was then none in Vermont so competent to handle an important and highly confidential matter as Micah Townsend. Robinson's letter to Haldimand bore the date of May 8, 1781. Micah Townsend wrote from Fishkill on the Hudson on May 15, 1781, that he had been to Long Island and was hurrying back to Vermont.⁴ Since this information is derived from a letter in which Townsend thanked Governor Clinton for hav-

¹ *Vt. State Papers*, vol. III, part 1, p. 227.

² *2 Gov. & Coun.*, p. 444, note; *2 Vt. Hist. Soc. Coll.*, p. 82, note; Wells, *History of Newbury, Vt.*, p. 102.

³ *2 Gov. & Coun.*, p. 418; *2 Vt. Hist. Soc. Coll.*, p. 120.

⁴ *Public Papers of George Clinton*, vol. VI, p. 874.

ing given permission to him to pass within the enemy's lines, it grates upon the feelings of those who would like to regard Micah Townsend's integrity as beyond question; but he was Colonel Wells's son-in-law, and the two letters are damaging although not conclusive evidence. On his return from Vermont, Townsend promptly became a Register of Probate, and one of the Judges of Probate in the newly organized County of Windham, and a few months later became Vermont's Secretary of State.

Another suggestive happening at the April session of the Legislature at Windsor was the retirement of Thomas Porter and Doctor Reuben Jones as "Commissioners or Auditors to settle Public accounts." For all that appears these men were stout anti-British Whigs. Certainly Jones was of that sort. His demotion, according to the record, was forced because he had "Public accounts" of his own to settle. Porter appears to have asked to be relieved of the position. Their retirement might not be worthy of notice were not the character of their successors so significant, for no sooner was the Legislature through with Porter and Jones than "Capt. Matthew Lyon and Col^o. Sam^l Wells" were "appointed Commissioners or auditors in the room of Mess^{rs} Porter and Jones." We may be quite sure that any expense accounts incurred at the direction of Ethan Allen in his dealings with the British would be certified by such a pair as Wells and Lyon without question for payment by State Treasurer Ira Allen.

The rank and file of inhabitants of Windham County took exception to most of the men selected for the county offices on the ground that the candidates were British sympathizers or Tories. Micah Townsend's name seems to have aroused no opposition but there were well-grounded remonstrances against Luke Knoulton and others.¹ In spite of the charges and in spite of his actual political character, Luke Knoulton received from the Governor and Council a commission as one of the judges of the County Court. Thus to place in responsible positions in State and County governments men whose hearts were not in the Revolutionary cause, set an example sufficient to cause in Windsor a reconsideration of the prejudices that

¹ B. H. Hall's *History of Eastern Vt.*, pp. 409-410.

for some years had caused his townsmen to keep Colonel Nathan Stone out of local office. He became not only a highway surveyor and a member of the school committee, but was also placed upon the committee to fix a place for the county buildings for the newly erected County of Windsor, which now included in addition to the present constituent towns, the towns of Hanover, Dresden, Grantham, Lebanon, Plainfield, Croydon, and Cornish in New Hampshire. Further than this, the town of Windsor appointed him chairman of a committee, consisting of himself, Stephen Jacob, and Lieutenant Briant Brown, to give instructions to Windsor's town representatives relative to procuring from the Governor and Council an order for the election of new officers for the Third Vermont Regiment.

Incidental to the return of Colonel Stone to public esteem, the item of chief local interest in connection therewith is, of course, the determination of the place for the county buildings. The first step in the matter, following the Legislature's selection of Windsor as the county seat, came at a town meeting held in Windsor at the Meeting-House in the East Parish on June 5, 1781. The record, which is somewhat mutilated, seems to be as follows:

"Voted that a Com^{ty} of Six be appointed to meet a Committee appointed by the County Court on the third Tuesday of June Inst. for the purpose of Looking out a Proper Place in the Town of Windsor for Erecting a Courthouse and Goal for the County of Windsor.

"Voted that Capt. John Marcy, Stephen Jacob Esq^r., Colo. Nathan Stone, L^t. Briant Brown, Capt. Savige,¹ Leu^t. Cummins² [be the committee] as above."

The work of this committee, in co-operation with the committee appointed by the County Court, resulted in the selection of a plot of ground which now includes Windsor's "Common" and which was then a part of the farm of Jacob Hastings. A full description of the extent of the original Court House Common may be found in Hastings's deed conveying the property for county uses. Its easterly boundary ran approximately along the present retaining wall just east of the

¹ Samuel Stow Savage.

² Jerahmeel Cummins.

Town Hall and the High School Building, the northerly and westerly lines about as at present, and the southerly line well out into and along what is now State Street. Of the original location of the Court House it is impossible for the writer to speak with certainty, but for many years and perhaps from the date of its erection it stood in the extreme northeast corner of the premises on the ground now occupied by the present Town Hall.¹ Less is known as to the position of the County Jail. The fact that for many years there was a well near the western line of the Common suggests that the jail stood near the northwest corner of the property. As to the location of the whipping-post, the stocks, and the pillory, if such accessories were provided, the writer has no clue.

Windsor had now reached the zenith of its first stage. It had come to the height of its political importance. Besides having been the birthplace of Vermont it had become, by reason of its location and without numbering among its citizens any men of real leadership, virtually the State capital and actually the shire town of the largest county in the State. On paper, the area of Vermont was more extensive than that of the State as we now know it. Measures were then under way still further to enlarge it.

The State Government of which Windsor was the principal center had succeeded in forming, maintaining, and strengthening itself by means of force, daring, ingenuity, and persistence. This government was now only nominally allied with the thirteen former colonies, was practically independent of any of them and was secretly on such terms with Great Britain that the future of the State might easily have been that of a Canadian province.² As Washington remarked in a letter written by him to General Schuyler under date of May 14, 1781, "the Vermontese . . . are at least a dead weight upon us. It is greatly to be regretted that they are not by some means or other added to our scale as their numbers, strength, and resources would certainly aid us considerably, . . ."³

None of the men who in later years made Windsor noted more as a town of social or cultural or commercial importance

¹ See *The Old Constitution House and Its Neighbors*, p. 26, *et seq.*

² 1 *Gov. & Coun.*, p. 116, note.

³ *Vt. Hist. Soc. Coll.*, vol. II, p. 108.

than as a political center had as yet come into his own. The more distinguished and lovelier part of Windsor's history was yet to be made. The day of the pioneer and the frontiersman was not yet over. Although habit rather than actual need perpetuated the atmosphere of the camp it was the part of expediency for the sake of appearances rather than necessity to keep the military organizations of Windsor and other Vermont towns alive and conspicuous. For a few days at a time these companies still were called out for excursions on "alarms" much as town fire companies are called out for practice to-day. The Windsor men of 1781 responded to these calls without thought of danger, without expectation of fighting or killing anybody or being killed themselves and without an ambition for anything more noble or heroic than an early discharge and sufficient rum and other rations in the meantime. If by any chance they had had to fight there is little doubt that, under decent leadership, they would have fought bravely and well. The Tories—Jones and Buel—dared to come to Windsor in 1781 in furtherance of a plan to make a prisoner of Colonel Jonathan Chase, of Cornish.¹ If it be said that Windsor had become less concerned for American Independence it should be remembered that Vermonters generally now lived in the well-grounded belief that in whatever manner the War of the Revolution might terminate they and their State would be reasonably safe.² Of their warlike qualities one of Washington's comments, written early in 1783, is worthy of note even if it is only a left-handed compliment. The inhabitants of Vermont, wrote he, "are a hardy race, composed of that kind of people who are best calculated for soldiers; in truth, who *are* soldiers; for many, many hundreds of them are deserters from this army, who, having acquired property there, would be desperate in the defense of it, well knowing that they would be fighting with halts about their necks."³

Inglorious as might be the cause of Vermont's feeling of security, the people of the State showed no general disposition to criticize Vermont's guiding spirit. It is true that Colonel John Williams, who shared the view of the professional soldier

¹ Chase's *History of Dartmouth College*, p. 420. note.

² *1 Gov. & Coun.*, p. 116, note.

³ *Vt. Hist. Soc. Coll.*, vol. II, p. 326.

and who had a fair opportunity to observe the progress of events in Vermont, wrote that Ethan Allen "hath completely done for himself, and every person, almost, twits him for timber."¹ It is true, also, that Colonel Williams had been circulating a story to the effect that General Allen's commission as a brigadier was withheld because of a report that he had made a written overture to Governor Clinton.² But whatever the people of Vermont may have thought of Ethan Allen's negotiations with the British or of the letters he may have felt constrained to write by way of camouflage in order to give the appearance of continued sympathy with the Revolutionary cause—such as his letter to the Continental Congress,³ his letter to General Philip Schuyler,⁴ or the letter to Governor Clinton⁵—there is no convincing proof that Vermont generally regarded his reputation as destroyed or even tarnished. Consistently with his previous resignation as Brigadier-General in the autumn of 1780 he now declined to accept his new election to that office; but there is no real evidence that he had lost his standing or influence in Vermont unless such loss might be inferred from the emphatic vote to reject his brother Ira as a candidate to succeed him in the command of the First Brigade.⁶ As a matter of fact Ethan Allen as the principal leader of his State was now actively and successfully campaigning in the eastern towns of New York to secure their adherence to Vermont and thereby insure them against British invasion.⁷ So influential were the arguments which he and his lieutenants made in that district that ten New York towns presently elected fifteen representatives to sit in Vermont's Assembly.⁸

¹ *Public Papers of George Clinton*, vol. VII, p. 12. ² *Id.*, vol. VI, p. 685.

³ *2 Vt. Hist. Soc. Coll.*, p. 104.

⁴ *Id.*, p. 131.

⁵ *2 Gov. & Coun.*, p. 107, note.

⁶ *3 Vt. State Papers*, part 1, p. 252.

⁷ *Public Papers of George Clinton*, vol. VI, pp. 841, 890.

⁸ *3 Vt. State Papers*, part I, p. 244.

APPENDIX

EARLY MANUSCRIPT RECORDS

1. *Records of the Windsor Proprietors.* These papers were kept by and on behalf of the individuals to whom the Charter of Windsor was granted by Benning Wentworth, the Royal Governor of New Hampshire, on July 6, 1761, and their immediate successors. Such of these records as now remain extend from the year 1761 to the end of the year 1771. As far back as runs the memory of any person now living, the originals of these papers have been in the office of the Town Clerk of Windsor. They are written on loose sheets, unbound, and protected merely by being interleaved with sheets of heavy paper. They are somewhat mutilated, and the paper on which they are written is, in some cases, crumbling badly. They should not be handled. Two manuscript copies of these records are known, one being in the custody of Windsor's Town Clerk and one the property of Mr. Wardner.

2. *Windsor Town Records.* The earliest records of this nature (except the conveyances of proprietary rights and real estate entered in the books of Cumberland County and in the land records in the office of Windsor's Town Clerk) are in a packet labelled "Proceedings of Town Meetings from 1769 to 1788, Inclusive, & also a Petition for Town Meeting in 1794." For a long time prior to the discovery of this packet the earliest known records of Windsor town meetings were those in the so-called "Volume I" at the Town Clerk's office, beginning with the minutes of the town meeting of March, 1786. The packet above referred to supplies a record—although not quite complete—from 1769 to 1785 and includes a few items of a later date. In spite of the label on its wrapper, the packet at the time of its discovery in July, 1916, contained no records for the year 1786. Records for that and subsequent years are inscribed in "Volume I."

This old packet of original records was found on Friday

evening, July 28, 1916, by Stanley R. Bryant in a barrel in the basement of the Windsor Public Library. It was a part of a mass of papers, books, and documents which George A. Duncan, at the request of H. S. Wardner and with the consent of A. K. Hall (then Windsor's senior Selectman) and Sherman Evarts (then president of the Windsor Library Association) had gathered up from the basement of the Windsor Town Hall on July 26 and 28, 1916, and removed to the Library on the date last mentioned. The packet and other Windsor records had been lying on the floor at the west end of the Town Hall basement, underneath a pile of firewood. When found, the contents of the packet were damp and in places the fibre of the paper had disintegrated, but most of the writing was intact and legible.

The present Town Clerk is of the opinion that this packet and other records found with it were kept in a safe in the Town Clerk's office until some time in the administration of George M. Stone, when, at the direction of one of the Selectmen, they were removed to shelves or compartments on the walls of the so-called Selectmen's Room in the present—then new—Town Hall. It is believed that about the year 1889, when the Selectmen's Room was used as a recitation room for some of the classes in the public schools, all such records and papers were again moved and were lodged in the basement of the Town Hall. Some of them remained there in unlocked trunks and boxes or in barrels, while others were strewn loose upon the basement floor. All of them have been rummaged through by curiosity seekers at various times and without supervision. These papers still remain in the Public Library, but are not arranged or catalogued. In the summer of 1916 Sherman Evarts transcribed for H. S. Wardner a complete copy of the contents of the packet above mentioned, and of the original Proprietors' records. These copies are in Mr. Wardner's possession.

The early records of births, marriages, and deaths in Windsor were made and kept with the laxity and irregularity common to most Vermont towns. The records of the Congregational Church, although not extensive, go back as far as Mr. Tullar's pastorate and are important. The Windsor Public

Library has the late Lawrence Brainerd's very valuable annotated book of inscriptions on the gravestones in the Old South churchyard.

3. *Court Records.* The records of the Cumberland County Courts under the government of the Province of New York consist mainly of entries in two of the volumes in the office of the Clerk of Windham County at Brattleboro. The entries begin with the year 1772. They are by no means complete, but, such as they are, they should be copied and published by the State or by the Vermont Historical Society. Already the remaining court records of Gloucester County, now preserved in the office of the Clerk of Orange County at Chelsea, have been published by the Vermont Historical Society. (*Proceedings, Vt. Hist. Soc., for 1923-1925*, pp. 141-192.)

The earliest court records of Vermont as a State, so frequently referred to by Mr. B. H. Hall in his *History of Eastern Vermont*, the writer has not succeeded in finding.

At the office of the Clerk of Windsor County at Woodstock are records from 1782. As an aid to future historical research there is a field for work on the part of the State and the separate counties in arranging in calendars and classifying according to subject-matter the early judicial archives from Vermont's assumption of statehood down to 1850.

4. *Windsor Land Records.* These have been faithfully kept and are in an excellent state of preservation at the office of Windsor's Town Clerk. They are inscribed in many volumes of varying size. The earliest liber is bound in the original paper pasteboards covered with white vellum, and still bears upon the inside of the cover the quaintly inscribed card of the Paris stationers from whom it was bought about the year 1784. This card reads as follows:

A L'ENFANT JESUS
Ruë St. Honoré, au coin
de celle des Prouvaires.
DES LAURIERS
Tient Magasin de Papiers,
Et Fournit les Bureaux.
A Paris

At the Windham County Clerk's office at Brattleboro there are two volumes of Cumberland County deeds recorded under New York's jurisdiction prior to the American Revolution. Among them are a number of deeds of Windsor realty or proprietary interests in the township.

5. *Vermont State Records.* Regarding these there is little to add to Mr. Augustus Hunt Shearer's "Report on the Archives of Vermont," reprinted from the *Annual Report of the American Historical Association for 1915*, pages 311 to 355. What may be termed the earliest known volume of State records consists of forty pages in the handwriting of Doctor Jonas Fay, covering a transcript of convention records from 1776 to 1777. In 1904 Senator Redfield Proctor published a very handsome lithograph copy of them with interesting notes and letters. The query as to whether these pages are original records is best answered in the negative, and perhaps also by a reference, first, to the vote of Vermont's Council on June 18, 1778, appointing Doctor Jonas Fay, Colonel Moses Robinson, and Captain Ira Allen a committee "to Inspect into the votes and doings of the several conventions from Together with the doings of the Council of Safety, (the present Council & house of Representatives,) and put them in Regular order, and record them in Books for that purpose" (1 *Gov. & Coun.*, p. 272); and, second, to the entry at folio 323 in volume 8 of the MSS. *State Papers* in the Secretary of State's office at Montpelier, showing that Jonas Fay charged and received £10-16-0 for examining and recording at several times in September, 1778, the proceedings of former conventions. Manifestly there were original journals from which Doctor Fay in 1778 made his transcript.

INDEX

- Adams, James Truslow, 250
 Adams, John, 98, 104, 356, 447; extract from diary of, 99
 Adams, Samuel, 273, 286, 356
 Adams, Thomas, 495 n.
 Addison, 6
Address to the Inhabitants of the State of Vermont, 482
 Aiken, Edward, 367, 370
 Aikens, Asa, 40
 Ainsworth, Laban, 39
 Albany, 43, 46; records lost by fire in, 69, 183, 396; section of New Hampshire Grants in county of, 84; ejectment cases, 141, 143, 167; representation at N. Y. Provincial Congress, 291
Algerine Captive, 56
 Allen, Ebenezer, 367, 504
 Allen, Ethan, 238, 250, 252, 253, 286, 356, 428, 455, 456, 461, 471, 500, 502, 504, 532; escapades under, 154; quoted, 37, 167, 508; activities in New Hampshire Grants, 167, 455 ff., 469; leadership of, 230, 453, 454, 496 ff.; at Ticonderoga, 254, 255; his overtures to New York, 257, 258; rejected by Green Mountain Boys, 262-264; Canadians recruited by, 263; assault on Montreal, 263; characteristics of, 264; compared with Ira, 454 n.; his reply to Clinton's proclamation, 456, 457; visit of, to Continental Congress, 458, 459, 464 ff., 481, 488, 501; unqualified as assemblyman, 462, 488; letters from, 473-475, 538, 539, 544; letters to, 482, 510, 511; his *Vindication of the General Assembly*, 491; grant to, 505; secret negotiations of, with British, 510 ff., 538 ff.; interview with Sherwood, 518, 519; charges against, 522; elected to command First Brigade, 537; campaign activities in New York, 544
 Allen, Heman, 272, 273, 285, 288, 295 ff., 299, 304, 306, 334, 336, 339, 356, 380, 399, 404 ff.
 Allen, Ira, 82, 237, 250, 254, 275, 277, 301, 351, 355, 377, 386, 404 ff., 422, 432, 433, 436, 462, 468, 472, 475, 497, 498, 504, 516, 527, 538, 539, 548; his *History of Vermont*, 76, 145, 160, 175, 372, 394, 404, 415, 420, 485, 511-515, 532; quoted, 178, 378, 400, 404, 424, 451; his support of separate state idea, 286; at conventions, 299, 306, 324, 325, 334 ff., 384, 484, 521, 522; his *Miscellaneous Remarks*, 78, 359 ff., 392, 414, 416; secretary of Council of Safety, 380; sent to Cumberland County, 411; compared with Ethan, 454 n.; first Vermont seal drawn by, 478; reports favoring limitation of State of Vermont, 481-483; Knoulton and, 513 ff.
American Archives, 312, 333
American Judiciary, The, 392
American Revolution, 250, 253
 Americanism, conventions held in cause of, 239 ff.
 Ames, John, *see* Amos
 Amherst, Jeffery, 6, 25, 114
 Amos, John, 354
 André, Major, 516, 517
 Andrews, John, 95
 Andross, Bildad, 154, 246
Annals of Brattleboro, 426
 Anne, Queen, 108
 Arlington, 119
 Arms, John, 123
 Armstrong, John, 69
 Arnold, Benedict, 254, 517
 Ascutney, Mount, 5, 386
 Associations, pledging support to Revolutionary cause, 288-290, 294
 Atkins, Nathaniel, 92, 193, 352, 353
 Atkinson, Colonel, 131, 143
 Atkinson, Frances Deering, 100
 Atkinson, Theodore, Jr., 100
 Atlee, Samuel, 500, 501
 Baldwin, Judge, quoted, 392
 Banishment Act, the, 451, 452, 455, 472, 518
 Bannister, Silas, 417, 447
 Banyar, Goldsbro, 178, 201, 216, 353
 Barnard, 335
 Barrett, John, 379, 408, 436, 472, 480
 Barrett, Joseph, 447
 Bartlett, Aaron, 144, 150, 177, 262
 Battle of Trenton, 117 n.
 Bayard, William, 111, 112
 Bayley, E. A., 181, 182, 192
 Bayley, Frye, 262 n.
 Bayley, Jacob, 81, 95, 182, 191, 192, 226, 274, 291, 304, 305, 326, 339, 340, 344, 363, 374, 380, 404 ff., 428, 433, 462, 466, 469, 472, 483 ff., 502, 539,
 Beach, Elihu, 353
 Beaman, Charles Coatsworth, 484

- Beatty, Francis, 220 n.
 Becker, C. L., 53
Beginnings of the American People, 53
 Belknap, Jeremy, 11, 19, 473, 486
 Bell, Benjamin, 50
 Bellomont, Earl of, 108
 Bellows, Benjamin, 95, 246, 381, 521
 Bellows Falls, *see* Great Falls
 Benjamin, Caleb, 89, 91, 114, 150, 185, 190, 193, 262, 352
 Benjamin, John, 74, 89, 114, 190, 193, 232, 352, 416, 461, 478 n., 498, 505, 506, 525; highway surveyor, 144; among rioters, 150; sheriff, 430, 431, 438, 490, 491, 492, 497; joins Congregational church, 493
 Bennington, 6, 12 ff., 18, 24, 186, 235, 299, 300, 387, 394, 420, 421, 426, 453; turmoil in, 146, 230; Battle of, 404, 407, 414, 461; Vermont Legislature at, 516, 524; County of, 437; public hanging at, 454
 Berkshire County, 529
 Bernard, Francis, 58 n.
 Bishop, Benjamin, 92, 193, 352
 Bishop, Jeremiah, 92, 190, 193, 259, 348, 352, 506, 525, 534
 Bishop, Seth, 534
 Blackstone, Sir William, 3 n.
 Blakeslee, James, 441
 Blanchard, Joseph, 25 ff.
 Blome, Richard, 5
 "Blowmedown," 51
 Blunt, Andrew, 89, 92, 95, 150, 353, 534
 Bowker, Joseph, 286, 299, 324, 334, 366, 377, 379, 384, 415, 432, 433, 462, 529
 Bradford, 9
Bradford Club Series, 5
 Bradley, Stephen Row, 499, 502, 513, 516
 Brainerd, Lawrence, 547
 Brands, statute for, 496
 Brattle, Colonel, 33
 Brattleboro, 6, 9, 23, 72, 76, 83, 184, 188, 373, 536; loyalty of, to New York, 362, 365, 367, 417, 426, 427, 439, 462, 465; meeting of Cumberland County men at, 423; meeting at, to protest against secession from New York, 439 ff.; town meeting, 452; records at, 547, 548
 Breakenridge farm, the, 146, 151
 Bridgeman, John, 308
 Bridgeman's Fort, 6
 Bridgewater, grant of, 27; Earl of, 34
 British, grievances against Parliament, 239; approach of, to Vermont, 381, 383, 401; refuge with, sought by Green Mountain Boys, 401; Allen's secret negotiations with, 510 ff., 538 ff.
 Brooks Library, 183
 Brown, Briant, 113, 117 n., 507, 523, 525, 533, 541
 Brownson, Gideon, 306
 Brownson, Timothy, 384, 406, 432, 433, 462
 Brush, Crean, 228, 243, 253, 277, 489
 Bryant, Stanley R., 546
 Bryce, James, 386
 Buena Vista, 54, 350
 Bull, Joseph, 218
 Burgoyne, General, 381, 401, 414
 Burk, Jonathan, 92, 193, 293
 Burke, Isaiah, 352
 Burke, Solomon, 352
 Burlingame, Israel, 293
 Burnet, William, 20
 Burnham, John, 334, 338, 366, 433 n.
 Burnham, John, Jr., 300
 Burnham, Moses, 131
 Burroughs, Eden, 463
 Burt, Benjamin, 441
 Burt, Jonathan, 447
 Burton, Asa, 460
 Burton, Jacob, 335, 338, 366
 Butler, Asaph, 259, 260, 353
 Butler, Ezra, 353
 Butler, Joel, 353, 417, 505, 534
 Butterfield, Benjamin, 246, 247, 441
 Byington, Ezra Hoyt, 92, 93, 234, 493, 494
 Cabot, Miss, 426
 Cady, Stephen, 350
 Calvinists, in Windsor, 93
Calendar of Historical Manuscripts, 69, 333
 Canada, conquest of, 23
 Cardiff, 33
 Carleton, Christopher, 322, 324, 515
 Carpenter, Benjamin, 175, 299-301, 381, 406, 420, 433, 462
 "Casino," the, 484
 Castleton, 519
Catalogue of Vermont Officers, 434
 Cavendish, 9, 536
Centennial Memorial of Windsor, Vermont, 202
 Champlain, 5
 Champlain, Lake, attack on American fleet on, 322, 324
 Chandler, John, 159
 Chandler, Thomas, 57, 61, 62, 81-83, 148, 154, 155, 164, 174, 194, 244-247, 335, 338, 339, 432
 Chandler, Thomas, Jr., 462
 Chapin, Pelatiah, 495, 534
 Charles II, grant made by, 1-3, 15, 21, 46, 47, 173; the father of Vermont, 390
 Charleston, 3, 4
 Charlestown, 6, 8, 9, 42, 43; convention at, 520-522. *See also* Number Four

- Charlotte, Queen, 100
 Charlotte County, 84, 250, 291
 Chase, Alice, 50, 51
 Chase, Betty, 95
 Chase, Bishop Philander, 51
 Chase, Dudley, 51, 133, 135, 484
 Chase, Jonathan, 354, 447 n., 501, 543
 Chase, Samuel, 104, 135, 350, 521, 528
 Chelsea, records at, 547
 Chester, 9, 72, 76, 79, 83, 297, 345;
 rioters in, 154 ff.; agitation for re-
 moval of court house from, 185, 186,
 188, 228, 231. *See also* Flamstead
 Chesterfield, 9
 Child, W. H., 51
Child's Windsor County Gazetteer, 34
 Chimney Point, 6
 Chipman, Daniel, 77, 80, 391, 392, 394
 Chipman, Nathaniel, 77, 221
 Chittenden, L. E., 408
 Chittenden, Thomas, 286, 299, 301,
 334, 338, 339, 356, 366, 380, 385, 399,
 404 ff., 424, 432, 433, 448, 458, 508,
 510, 511, 539; letters from, 415, 465,
 473, 474, 514; letter to, 482; final
 orders of Council of Safety issued by,
 429, 430; re-election of, 461, 516,
 517; recommends suspension of en-
 forcement of statute, 503; his procla-
 mation of pardon, 499, 501, 502
 Church, established in Cornish and
 Windsor, 90 ff.
 Church, John, 247
 Claremont, 9
 Clark, Ebenezer, 399, 402
 Clark, Jeremiah, 406, 432, 433, 462
 Clark, Nathan, 300, 334, 338, 339, 345,
 366, 380, 404, 405, 409, 504
 Clark, Nathan, Jr., 338
 Clay, James, 281, 292 ff., 308, 327, 331,
 363, 373, 400, 410, 417, 423; circular
 letters of, 315
 Clesson, Mathew, 13
 Clinton, George, Governor of New York
 after American independence, 14
 Clinton, George, Governor of Province
 of New York, 13-17, 20, 23, 34, 503,
 512, 520; proclamation of, 423, 429;
 extract from letter to, 427, 428;
 Allen's reply to proclamation of, 456,
 457; letters from, 457, 465; attitude
 of, toward Vermont's statehood, 528;
 threat of, to prorogue legislature, 533
 Clinton, Henry, 510
 Clinton, James, 496
 Cochran, Robert, 247, 253
 Colden, Alexander, 67, 70
 Colden, Cadwallader, 12, 14, 19-22, 32,
 43-48, 56 ff., 64 ff., 78, 80, 125, 369;
 place of lawyer defined by, 110;
 grants by, 118; memorial addressed
 to, 140; enmity toward Dunmore,
 170, 171; petition to, 241; letter from,
 247; observations of, on riot, 248, 249
 Cole, Ebenezer, 142
*Collections of the Vermont Historical
 Society*, 85
Common Sense, 356
 Comstock, J. M., 381
*Concise Refutation of the Claims of New
 Hampshire and Massachusetts Bay, A*,
 508
 Congregational Church, records of, 546
 Connecticut, boundary of, 18, 19
 Connecticut River, ferry established
 across, 354; first bridge, 355
 Constitution, Vermont's, 384, 385, 386-
 395; first to prohibit slavery, 386,
 387; legislation provision, 388; pro-
 vision regarding senators, 388; com-
 parison of, with Pennsylvania's, 388
 ff., inhabitants ignorance of, 390,
 391; religious liberty provided by,
 389; provision for council of censors,
 393; acts to establish, 394, 395
 Continental Congress, the, 240, 257,
 285, 342, 411, 468, 469, 500; petition
 to, 271 ff.; resolutions of, 328, 356 ff.,
 371, 372, 503, 504; commission se-
 cured by Warner from, 345, 346;
 action of, on petition of New Hamp-
 shire Grants, 399, 400; Ethan Allen's
 visit to, 458, 459, 464, 465, 481; re-
 port to, of separatist movement in
 Vermont, 473; investigating com-
 mittee appointed by, 500, 501; me-
 morial to, from Lebanon convention,
 501; progress on Vermont affairs,
 503, 504, 507 ff.; Knoulton at, 512,
 513; farewell letter of Allen and
 Bradley to, 516; Allen's letter to, 538,
 539, 544
 Cook, Samuel, 348
 Cooper, Thomas, 41, 42, 52, 54, 55, 69,
 74, 86, 87, 91, 113-115, 144, 150, 190,
 194, 226, 253, 259, 273, 318, 348, 351,
 435, 437, 446, 452, 455, 460, 461, 470,
 472, 488, 494, 505, 507
 Copley, John Singleton, 100, 137
 Cornish, 9, 90, 102, 521, 541; conven-
 tion at, 473, 483 ff., 528 ff., in 1778,
 477
Cornish History, 354
 Cornwall, 462
 Cosby, William, 20
 Cossit, Ranna, 492
Courant, Hartford, 342, 355, 366, 367,
 370, 371, 410, 411, 416
 Courts, procedure in ancient admiralty,
 126; commissioners, 448, 451, 452; of
 confiscation, 448, 449, 452; superior
 of Vermont, 472; "Special," 448-452,
 472; records of, 547
 Cowles, Gideon, 351, 438, 494
 Crockett, Mr., 264

- Crown Point, 24, 255, 257
 Croydon, 541
 Cruger, Henry, 201, 216, 220, 353
 Cruikshank, Lieutenant, 170
 Cumberland County, erection of, 82-84; doubtful legality of, 147, 156; indictment by Grand Jury of, 151-153; first census, 170, 183 ff.; districting of, 227, 228; change in county seat, 228, 231; conventions in, 235, 237 ff., 251, 252, 255, 259, 265 ff., 275, 276; lawlessness in, 242, 243; complaints against Court of Common Pleas, 243, 244; conclusions of, on uprisings, 250; separate province suggested, 251, 252; committee of Safety, 255 ff., 275, 284, 287, 292, 317, 318, 326 ff.; military organization, 273; delegates from, to New York convention, 276, 291, 341; instructions to delegates, 277 ff.; separate State idea in, 286, 288; distinction between meetings on west side of Green Mountains and conventions of, 287; doubtful jurisdiction of New York over, 288-290, 296, 297, 301 ff., 309, 312; one of two first Vermont counties, 437; records of, 547, 548
 Cummings, Jacob, 86
 "Cummings's Rocks," 105 n.
 Cummins, Jerahmeel, 447, 534
 Curtis, Abel, 463, 464
 Curtis, Ebenezer, 92, 150, 165, 184, 185, 190, 194, 259, 293, 318, 345, 346, 348, 352, 354, 355, 371, 417, 446, 455, 480, 494, 505, 525, 534-537; petition signed by, 175; in General Assembly, 435-437, 461, 470, 472, 516, 528; commissioner for sale of confiscated estates, 499; at Charleston convention, 521
 Curtis, Elizabeth, 261
 Curtis, Israel, 41, 42, 52, 54, 69, 74, 83, 86, 87, 91, 95, 106, 114, 120, 121, 130, 132, 137, 150, 177, 185, 224, 228, 235, 260, 261, 270, 351; on school committee, 145; in Chester riot, 154 ff.; complaint against, 165; New York government appointment, 176; letters from, 261; death of, 261
 Curtis, William, 371
 Curtis, Zebina, 261, 262, 294, 354, 413, 417
 Cutler, Benoni, 507
 Cutler, Thomas, 441
 Cutting, Sewall, 270
 Dallas, Alexander, 69, 75
 Dana, Henry Swan, 54, 177
 Dana, John, 372
 Danvers pamphlet, the, 421, 422
 Dartmouth College, 11, 98, 191, 463, 485
 Dartmouth, Lord, letter to, 248
 Davenport, Charles, 244
 Davis, Ebenezer, 193
 Day, Elkanah, 308, 324
 Dean, Abigail, 350
 Dean, Elizabeth, 89, 350
 Dean, James, 350
 Dean, Peace, 115
 Dean, Phinehas, 107
 Dean, Rachel, 121, 139
 Dean, Reuben, 107, 349, 351, 507; Vermont's first seal cut by, 478-480
 Dean, Willard, 103, 107, 117, 132, 350; arrest of, 119 ff.; decree against, 138; petition signed by, 175
 Dean, William, 89, 102-106, 253, 273, 318, 345-350, 408, 446, 494; progressiveness of, 107; violation of timber law, 108, 109, 117 ff., 130 ff.; conveys land to Grout, 111; prosecution of, 117 ff., 125 ff., 130 ff.; answer of, to information filed against, 130-132; lots on Lower Meadow claimed by, 135; bill of sale to Wells, 138; decree against, 138; imprisoned, 139; petition for forfeiture of land of, 140, 141, 168, 169; support from New Yorkers, 147; expense of case against, 171, 172; petition signed by, 175, 177; supports movement for change in county seat, 186, 231; activities of, in securing buyers for Windsor lands, 218, 219; ejectment suit in favor of, 223 n.; Windsor's leader, 375; convention delegate, 379, 380
 Dean, William, Jr., 103, 107, 117, 132, 262; arrest of, 119 ff.; in jail, 124, 125; decree against, 138; petition signed by, 175
 Declaration of Independence, 288, 291
 Deering, 100
 De Lancey, Lieutenant-Governor, 20, 43
Dictionary of National Biography, 84
 "Districting Act," the, 224
Documentary History of New York, 112, 121, 124, 138, 142, 149, 155, 168, 172, 183, 264, 295, 304, 345
Dodsley's Annual Register, 84
 Dorset, 262; convention at, 264, 269, 271 ff., 285 ff., 295-298, 299 ff., 318, 324, 345
 Douglass, William, 19
 Downer, Charles, 102 n.
 Dresden, 261, 463, 541
 Duane, James, 118, 119, 138, 167, 178, 310, 311, 500; counsel for Deans, 125 ff.; prominence of, 129; letter from, 140; quoted, 312 ff.; report of, 325, 327; extract from letter to, 457; papers of, 178, 466
 Duer, William, 250, 291, 310

- Duke of York, grant to, 173
 Dulles, Alexander, *see* Dallas
 Dummerston, 9. *See also* Fulham
 Duncan, George A., 546
 Dunham, Obediah, 304
 Dunmore, Earl of, 20; appointed governor of New York, 170; letters of, 171; his census of Cumberland and Gloucester, 170, 183 ff.; petitions received by, 173 ff.; governor of Virginia, 194
 Dwight, Timothy, 254 n., 486, 487
Early History of Vermont, 47, 64-66, 145, 151, 167, 237, 360, 376, 388, 423

 Easton, James, 254
 Edwards, Timothy, 500
 Elliot, Andrew, 70
 Ellsworth, Oliver, 500, 501
 Ely, Joel, 297, 348, 507, 516, 525, 533, 534, 537
 Ely, Joel, Jr., 447
 Emmons, Benjamin, 293, 335, 408, 432, 433, 462, 481
 Emmons, Mary, 49-51
 Emmons, Solomon, 49, 50, 53, 87, 89, 114, 120, 193, 259, 260, 294, 352, 534; among rioters, 150, 159
Essay for the Recording of Illustrious Providences, 5
 Evans, Asher, 441
 Evans, John, 92
 Evarts, farmhouse the, 227, 425
 Evarts, Helen Minerva, 50 n.
 Evarts, John, 74
 Evarts, Sherman, 40, 546
 Evarts, William Maxwell, 1 n., 102
 Everett, Horace, Jr., 523

 Fairlee, 9
Family Memoirs, 249 n.
 Fane, 23
 Fane, Francis, 33
 Farmington, 33
 Farrand, Daniel, 524
 Fassett, John, 436, 504
 Fay, Jonas, 250, 271, 286, 288, 295-301, 306, 326, 334, 339, 340, 356, 366, 370, 371, 376, 379, 380, 399, 404-409, 432 ff., 442, 462, 468, 469, 501, 508, 548
 Fay, Joseph, 462
 Fish, Josiah, 286, 288
 Fitch, Pelatiah, 450, 451, 465
 Fitch, William, 325
 Fitzpatrick, John, 69
 Flamstead, 23, 62, 79
 Fletcher, Robert, 26
 Fletcher, Samuel, 286-288, 335
 Floyd, William, 500, 509, 520
Folklore of Springfield, 478
 Fort Dummer, 6, 7, 18, 19
 Fort Edward, 249, 250
 Fort Payne, 33

 Fort Ranger, 490
 Fort Ticonderoga, 254
 Foster, Reuben, 380
 Francestown, 100
 Franklin, Doctor, 99, 100
 Franklin, Benjamin, 12, 21, 104, 390
 Frederick, Henry, 84
 French, trading-post of, 6
 French, William, 246
 Frink, Thomas, 31, 36, 38-42, 54, 86, 87
 Fulham, 6, 9, 23, 268
 Fuller, Ebenezer, 297

 Gaine, Hugh, 73, 216
 Gale, Samuel, 243-247, 277
 Gates, Horatio, 332, 429, 456
Gazetteer of Vermont, Thompson's, 35, 40, 49, 74, 113
 George I, 108
 George II, 10, 109
 George III, 75
 George Clinton Papers, 439
 Getchell, David, 89, 120, 145, 150, 159, 162, 165
 Getchell, Jacob, 89, 150, 262
 Gilbert, Ezra, 89, 114, 116, 144
 Gilbert, quoted, 524
 Gilson, Michael, 373
 Gloucester, 82-84
 Gloucester County, first census, 170, 183 ff.; conventions in, 235, 238 ff.; delegates from, 291, 366; court records of, 547
 Goffe, John, 24
Governor and Council, 66, 237, 239, 264, 268, 271, 284, 338, 345, 379, 381, 387, 388, 390, 395, 409, 422, 482, 483, 486, 502, 508
 Grafton, 3. *See also* Thomlinson.
 Graham, Ennis, 219
 Graham, John Andrew, 233, 275, 386
 Grand Isle, 505
 Granger, Elijah, 126, 134; testifies against Deans, 132, 135-137
 Granger, Robert, Jr., 136
 Granger, Zadock, 136
 Grant, Anne MacVicar, 64, 65
 Grant, John, 263
 Grantees, the Windsor, 31, 32, 40
 Grantham, 541
 Grants, the Bennington, 12 ff.; for sixteen towns, 23; of Pownal, 23, 24; of Windsor, 25, 27 ff., 37, 38, 67 ff., 70 ff.; forms of, 26; method of obtaining, 26, 27; of 1761, 27; reservations in, 29-31, 79, 140, 141; speculation in, 32, 33, 37, 38; settlers on, 52 ff.; applications for new, 56 ff., 66 ff., 192 ff.; Ilchester petition, 66, 67; fees for New York, 77, 78; the Hoosick, 80, 186, 187; the Wallum-schaak, 80, 186, 187; test of validity

- of Wentworth, 118, 119, 127, 128;
Newbury's New York, 192; New
York's provision for ratifying and
confirming, 392; the Mason, 421.
See also New Hampshire Grants
- Graves, Phineas, 42
- Great Falls, the, 7
- Green Mountain Boys, the, 106, 178,
229, 253, 258, 262, 269, 401
- Greenleaf, Stephen, 246
- Gridley, Samuel, 150
- Griffin, John, 241, 248
- Griffin, S. G., 39
- Grout, Hilkiah, 35-37, 40, 41, 109, 373,
374, 417, 441, 452, 453, 490, 491, 520
- Grout, John, 37, 90, 128, 134, 146, 147,
155, 239, 355; character of, 109; con-
sulted by Dean, 109, 111; attack on,
115, 116, 148; his part in Dean
prosecution, 121 ff.; in riot, 146 ff.;
Stone's opinion of, 147; disbaring
of, demanded, 157; abduction of,
159 ff.; his escape, 163, 164; petition
signed by, 175; banishment of, 489
- Guilford, 23, 164, 184, 439
- Guilford, Francis, 33
- Haldimand, Frederick, 301, 512 n.,
517-519, 539
- Halifax, 23, 79, 80, 99, 184, 297, 317,
423
- Hall, A. K., 546
- Hall, Benjamin Homer, 7, 35, 51, 66,
68, 82, 83, 102, 104, 105, 115, 119-
121, 138, 148, 155, 163, 165, 183-186,
228, 237, 241, 265, 284, 296, 312, 320,
332, 345, 401, 418, 423, 426, 439, 492,
497, 520, 547
- Hall, David, 352, 355
- Hall, Hiland, 47, 64-66, 78, 82, 145,
151, 167, 175, 237, 244, 252, 324, 360,
376, 388, 391, 395, 423, 472, 475, 532.
- Hall, John, 334
- Ham, William, 133, 136
- Hamilton, Alexander, 21
- Hammond, Matthew, 92, 294
- Hancock, John, 248, 257, 291, 343
- Hancock, Joseph, 241
- Hanover, 9, 261, 422, 463, 541
- Hardy, Charles, 20
- Harmony of Divine Attributes*, 95
- Harris, Edward, 472
- Hartford, 9, 27, 34, 335, 365, 536
- Hartland, 9, 27, 76, 80, 83. *See also*
Hertford
- Harvard University, 12
- Harvey, Solomon, 241
- Hastings, Jacob, 92, 351, 352, 383 n.,
446, 507, 541
- Hatch, Joseph, 463, 464
- Hathaway, Charles, 136
- Hathaway, Jacob, Jr., 136
- Hathaway, Simeon, 300, 367
- Haughton, Lieutenant, 517, 518
- Haverhill, 9
- Hawley, Elisha, 52, 55, 91, 145, 150,
165, 194, 268, 294, 351, 354, 397-399,
437, 447, 494
- Hawley, Ezekial, 294
- Hawley, Josiah, 434 n.
- Hazeltine, John, 239-241, 247, 248,
252, 255, 256, 266, 267, 275, 286
- Heartman, C. F., 319 n.
- Heath, John, 263
- Henry, William, 84
- Herrick, Samuel, 409, 411, 421, 505
- Hertford, 9, 27, 72, 188, 317, 536
- Hertford, Marquess, 34
- Hessians, chest captured from, 117 n.
- Hide, Joshua, 441
- Hillsborough, Lord, 47, 101, 102, 118,
170; letters to, 142, 143, 170, 171;
letter from, 192
- Hilton, Martha, 11, 97
- Hinsdale, 9, 23, 122, 249, 365, 417, 439,
462, 465, 536
- History of Cornish*, 51
- History of Eastern Vermont*, 7, 35, 51,
66, 68, 82, 102, 115, 138, 183, 186,
228, 237, 241, 265, 296, 312, 418, 426,
439, 492, 497, 547
- History of the First Congregational
Church of Windsor*, 92, 234
- History of Keene, New Hampshire*, 39
- History of Newbury*, 408
- History of the People of the United
States*, quotation from, 444
- History of Vermont*, Allen's, 76, 145,
160, 175, 362, 372, 394, 404, 415, 420,
424, 485, 511, 513-515, 532
- History of Vermont*, Williams's, 183,
386
- History of Woodstock*, 54, 177
- Hodgman, Lot, 417
- Hoisington, Ebenezer, 91, 184, 185,
194, 270, 274-276, 293, 318, 339, 355,
366, 408, 437, 480, 481, 494; among
rioters, 150; for secession, 232; dele-
gate at conventions, 259, 260, 297,
299 ff., 304 ff., 324 ff., 335 ff., 340,
341, 375, 379, 380; his code of instruc-
tions, 277 ff., 283, 307, 310, 314 ff.,
328, 360; his letter to Cumberland
County delegates, 341; letter from,
364, 365; town meeting called by,
346; Windsor property of, 352, 354;
commissioner of Sequestration, 417
- Hoisington, Joab, 54, 69, 74, 87-91, 95,
114, 145, 150, 177, 194, 239, 240, 256,
257, 260, 262, 268, 292, 293, 329, 332,
352, 383, 389; communication from,
308 ff.; inquiry into activities of, 331-
333; death of, 333
- Holland, Lord, 66, 101
- "Hoosick Grant," the, 24, 80
- Horsmanden, Daniel, 149, 164, 248

- Houghton, Daniel, 246
 Hourglass Hill, 54
 Howard, Ebenezer, 91, 193, 294, 353
 Hubbard, Eldad, 294
 Hubbard, Elisha, 352
 Hubbard, Watts, 259, 351, 352, 354, 438, 494
 Hubbard, Watts, Jr., 320, 351, 412, 447-450, 478, 490; trial of, among earliest Vermont judicial proceedings, 438
Hubbard's History of New England, 34
 Hubbardton, 401
 Hunt, Arad, 135
 Hunt, Samuel, 42, 69, 74, 521
 Hunter, David, 294, 413, 417
 Hunter, Robert, 20
 Hunter, Thomas, 294
 Hunter, William, 263, 270, 294, 354, 505
 Hutchinson, Aaron, 94, 377, 378, 381-383, 407
 Hyatt, Caleb, 75
 Ilchester, Earl of, 66, 101
 Indians, in early Vermont, 5-8, 517, 518; monuments commemorating warfare of, 7, 8; school for, 95
 Ingersoll, Jared, 117, 167
 "Intervale of Cohass," the, 25
 Jacob, Stephen, 461, 523, 524, 541
 James, Duke of York, grant made to, 1-3, 15, 46, 47
 Jay, John, 311, 360, 500, 503
 John, King, 1
 Johnson, Thomas, 340
 Johnson, William Samuel, 105, 251
 Jones, Daniel, 103, 123, 137, 522 n.
 Jones, Reuben, 244, 248, 250, 297, 299, 301, 306, 325, 334, 335, 338, 339, 356, 399, 408, 436, 504, 540
Journal, Sherwood's, 518
Journals of the New York Provincial Congress, 329
 Judd, Enoch, 89, 91, 120, 150, 165, 193, 262, 354
 Keene, 39, 42, 43
 Kelley, John, 173
 Kempe, John Tabor, 117-119, 125 ff., 138, 140, 167, 428
 Kent, 365, 367
 Kent, Cephas, 285
 Kent, Duke of, 99
 Kent, Jacob, 305, 417, 432
 Killington, 27. *See also* Sherburne
 King, Ebenezer, Jr., 136
 King, Joseph, 55, 87, 88, 106, 114, 116, 135, 137, 145, 150, 155
 King, Rufus, 100
 King in Council, decision by, 56; order disallowing Cumberland County, 83; suspension of re-grants ordered by, 85, 86
 King's Woods, 98, 101
 Kingston, 400
 Knapp's Brook, 7
 Knickerbocker, John, 415
 Knight, Samuel, 221, 247, 441
 Knoulton, Luke, 373, 512 ff., 521, 527, 540
Lady Wentworth, 11
Land Papers, 32, 58, 67-69, 197
 Laurens, Henry, 464
 Lawyers, attitude of Windsor toward, 110
 Leavens, Charles, 507, 534
 Leavens, Peter, 91, 150, 193
 Lebanon, 9, 95, 541
 Lesley, Susan, 93, 94
 l'Hommedieu, Ezra, 509, 520
Life and Services of Samuel Adams, 286
 Lincoln, Benjamin, 407, 412, 448
 Livingston, Peter Van Brugh, 255, 257
 Livingston, Robert R., 165, 269, 509, 520
 Lockland, Dennis, 335
 Lockwood, William, 379
 Longfellow, 11
 Lord, Joseph, 83, 148, 155, 164
 Lords Commissioners for Trade and Plantations, 24, 43, 44, 47, 97, 185 ff., 191
 Loring, Joshua, Jr., 101
 Low, Isaac, 238, 239, 255
 Lowell, James Russell, quoted, 476
 "Lower Meadows," 105, 130, 133, 135, 136
 Lower Regiment, 273, 364
 Loyalists, confiscation of property of, 417, 442, 451, 452; expulsion of, 451, 452, 455; in Cumberland County, 512
 Ludlow, George Duncan, 165
 Ludlow, Thomas, 119
 Lull, Zenas, 263
 Lyman, Mrs. Judge, 93
 Lyme, 9
 Lynd, Jerusha, 95
 Lyon, Matthew, 537, 539, 540
 Lyon, Zebulon, 412
Magna Charta, the, 1, 3
 Manchester, 119, 249, 378
 Marcy, John, 506, 518, 525, 534, 541
 Marlborough, 23, 316, 317; Duke of, 34
 Marsh, Joel, 461, 506 n.
 Marsh, Joseph, 274, 288, 291, 308, 315, 320, 341, 342, 363, 364, 367, 377, 379, 384, 393, 394, 407, 408, 417, 432, 433, 442, 461, 468, 473, 483, 485, 501, 502, 506 n., 511, 517, 518, 537
 Marsh, William, 249, 250, 271, 288, 295, 296, 299, 301, 306, 325, 328, 342, 401, 489
 Martin, Matthew, 441

- Mason, Grant, 421 n.
 Mason, Jeremiah, 3, 392, 524
 Mason Line, the, 528
 Massachusetts, Fort Dummer built by government of, 5, 6; boundary of, 10, 18, 19; effect on Cumberland County of example of, 248, 249; Phelps's desire for union between New Hampshire Grants and, 282, 283; Allen ambassador to, 504
 Mast Camp, the, 102
 Mather, Increase, 5
 McGinnis, Robert, 69
 McKesson, John, 119; letter to, 362, 363, 418
 McMaster, James Bach, quoted, 444
Memoir of General Bayley, 192
Memoir of Thomas Chittenden, 391
Memoirs of an American Lady, 64
 Messer, Samuel, 294
 Mill Brook, bridge, 87, 89
 Mills, in Windsor, 87, 90
 Mills, Simeon, 89, 114, 150
 Minute Men, 268, 273, 275
Miscellaneous Remarks and Short Arguments, 342, 359, 360, 392, 414, 416
 Monckton, Robert, 20, 44, 170
 Montgomerie, John, 20
 Montgomery, Richard, 263, 269, 270, 332
 Montpelier, 40
 Montreal, 263
 Moore, Henry, 20, 32, 64-67, 75, 78-81, 85, 86, 101, 125
 Moore, Lady, 65
 Mooretown, 9
 Morey, Israel, 95
 Morgan, Mrs. Henry M., 495 n.
 Morris, Gouverneur, 362, 401-403, 419, 427-429, 464, 500
 Morris, Lewis Richard, 117, 221
 Morris, Richard, 119, 125, 128, 138-140
 Murdock, Thomas, 335, 432, 433, 462, 463, 472
 Naughton, Andrew, *see* Norton
 Nevin, James, 134
 Newbury, 9, 79, 80, 191, 536
 Newfane, 439, 462. *See also* Fane
 New Hampshire, boundary of, 10, 13 ff., 18 ff., 23, 24, 43-48; Benning Wentworth, governor of, 10-17; last royal governor, 98; day for annual town meetings, 115; Stone's petition for annexations to, 142; bitterness between New York and, 151, 162, 172, 242, 253, 322, 324 ff., 334 ff., 444-446; Phelps's desire for union of Massachusetts and, 282, 283; proposed annexation to Vermont of towns in, 455, 457, 458, 465 ff., 481 ff., 521, 527 ff.; convention, 514
New Hampshire Gazette, 35
 New Hampshire Grants, 11 ff., 23 ff., 45 ff., 52; quitrents, 45, 189, 361, 362, 369, 370, 401, 428; petition for county organization on, 61-63; restrictions in, 79, 80; organization of militia on, 81, 87; drawing for lots in, 86; Wentworth's efforts in behalf of, 111 ff.; ejectment cases against, 141, 143; petitions for annexations to, 142, 436; uprisings in, 145 ff.; Allen's activities in, 167; decision against, 167, 169; representation of Lords of Trade regarding, 185 ff.; turmoil in, preceding Revolution, 230; conventions in, 236, 237 ff., 264, 265 ff., 271 ff., 334; end of New York courts in, 248; entrance of, in Revolution, 254; association subscribed to by, 288-290; new state idea in, 295 ff.; 300 ff., 324 ff., 334 ff., 355 ff., 366 ff., 399; New York's case against, 311 ff.; conventions on, 324 ff.; form of notification of town meetings, 316, 317; declarations of independence, 337 ff., 356, 366; naming of new state, 339; objections of, to New York Constitution, 360; loyalty on, to New York, 417, 418, 422, 439 ff., 452, 496; complaints against New York, 369, 370, 382; motives underlying proposed consolidation of, 527
New Hampshire State Papers, 98
New York Gazette and Weekly Mercury, advertisement in, 216-218
 New York, disputed boundary of, 10, 13 ff., 18 ff., 23, 24, 43-48, 173; New Hampshire grantees visit to, 56; Windsor's grant from, 70 ff., 202 ff.; re-grants issued by, 73 ff.; Deans taken to, 121-124; ejectment suits in, 128, 167; Windsor legally in, 142; uprisings against, 145 ff.; bitterness between New Hampshire and, 151, 162, 172, 242, 253, 322, 324 ff., 334 ff., 444-446; proposed annexations of, by Vermont, 529, 530; decision of, in favor of Grants, 167, 169; Grants claimed by, 187 ff.; decision on legality of grants, 220 ff.; petition for charters, 232; committee of correspondence at city of, 238, 239; threat of secession from, 281-283, 287, 307, 308 ff., 327 ff.; forms of association circulated by, 288; Cumberland County's union with, 255, 256; doubtful jurisdiction of, over Cumberland County, 288-290, 296, 297, 301 ff., 309, 312; case against New Hampshire Grants, 311 ff.; Committee of Safety, 343, 345, 398 ff.; relinquishment of claims to grants, 369; New Hampshire Grants complaints against, 369, 370, 382; Gloucester

- lost to, 374; constitution of, 359 ff., 392; loyalty to, in southeastern Vermont, 417, 418, 422, 439 ff., 452, 496; meeting to protest against secession from, 439 ff.
- New York Council, 140
- New York Mercury*, the, 73
- New York Narrative of 1773*, 25, 79
- New York Provincial Congress, 255; memorial addressed to, 319, 396; Cumberland County's delegates to, 287, 288
- Newell, Elihu, 417
- Noble, Jonathan, 150
- North Hero, 505
- Norton, Andrew, 55, 74, 87, 89, 114, 144, 150, 165, 190, 193, 320, 353, 396-399, 448
- Norton, John, 244, 308, 441
- Norwich, 9, 27, 184, 335, 463; Earl of, 34
- Nova Scotia, Wentworth, governor of, 99
- Number Four, 6, 7
- Olcott, Peter, 291, 367, 407, 408, 417, 432, 433, 436, 462, 463, 472, 501, 502, 511, 520-522
- Olcott, Simeon, 131, 134
- Olcott, Timothy, 246
- Old Constitution House, 54, 228, 293, 351, 385
- Old South Church, 91, 234
- Olin, Gideon, 433 n.
- Onion River Company, 77
- Orange County, 532, 536
- Orford, 9
- Osborn, Danvers, 20
- Otis, James, 356
- Packard, John, 318, 346
- Page, David, 41
- Paine, Elijah, 117 n., 221
- Paine, Thomas, 356
- Paisley, John, 69
- "Paradise," 102
- Parmelee, Alexander, 350, 351, 412, 438, 448, 505; 534
- Paterson, Eleazar, 373, 374, 396, 441, 499
- Paterson, William, 243-248, 277
- Patrick, Benoni, 350
- Patrick, Isabel, 89, 193, 350
- Patrick, Jacob, 350
- Patrick, Jane, 350
- Patrick, Matthew, 350
- Patrick, Samuel, 89, 91, 120, 193, 350, 534
- Patrick, the widow, 135
- Payne, Elisha, 442, 462, 463, 468, 469, 481, 482 ff., 501, 521, 528, 531
- Pearsall, Thomas, 218
- Pearson, William, 69
- Penn, William, his "Frame of Government," 390
- Pennsylvania, comparison of constitution with Vermont's, 388 ff.
- Peters, John, 131, 134, 262, 401
- Peters, Samuel, 359
- Petersham, 39
- Phelps, Alexander, 95
- Phelps, Charles, 241, 507, 508, 520; letter of, 281-283, 307, 308 ff., 327 ff.
- Phelps, Davenport, 489
- Phelps, James H., 183
- Phelps Papers, 116 n., 151 n.
- Phelps, Solomon, 158, 249 n., 325-327, 342
- Phelps, Thomas, Jr., 193
- Philadelphia, 273; continental congress at, 240, 257, 458, 500; Allen's visit to, 458, 459; encouragement from, to secessionists, 356; anti-slavery society, 386; Knoulton at, 513
- Piermont, 9
- Pines, in Vermont, 101, 102
- Pingry Papers*, the, 228, 240, 373
- Plainfield, 9, 541
- Plaistridge, 95
- Platt, Zephaniah, 310
- Plumb, Mrs., 479 n.
- Plymouth, 3, 27
- Pomfret, 27, 335, 365
- Pope, quoted, 497, 498
- Porter, Thomas, 540
- Porter, William, 417
- Portsmouth, 11, 98; Dean's trip to, 131 ff.
- Powell, Martin, 334, 366
- Powers, Joseph, 92
- Powers, Peter, 432
- Pownal, 6, 23, 146, 186
- Pownall, John, 24, 33
- Pownall, Thomas, 24
- Present State of His Majesty's Isles and Territories in America*, 5
- Prim, Peter, 69
- Principal Officers of Vermont*, 381
- Proceedings of the Vermont Historical Society*, 78
- Proclamation, Colden's, 46, 47
- Proctor, Redfield, 339 n., 548
- Proprietors, the Windsor, 35-42, 43, 86, 87, 115; first meeting, 35 ff.; records of, 40-42
- Provincial Council, 26, 27; New Hampshire grantees visit to, 56 ff.; representatives to, 276; name changed, 291
- Public Defence*, 483 ff.
- Pulk Hole Brook, 177
- Putnam's Creek, 381
- Putney, 6, 9, 23, 72, 73, 76, 80, 83, 184, 188, 231, 242, 268, 365, 439
- Quakers, 537

- Quebec, assault on, 269
 Queen's Loyal Rangers, 262, 401
- Randolph, 517
 Rangers, the, 291 ff., 329, 383, 397, 398;
 Queen's Loyal, 262, 401; Hoisington
 appointed major of, 292; inquiry into
 activities of, 331-333
 Ranney's tavern, 121
 Reading, 9, 27, 536
 Redding, David, 454, 455
Reminiscences, of Bishop Philander
 Chase, 50
 "Report on the Archives of Vermont,"
 548
Resolves of the Continental Congress, 410,
 411
Revolutionary New England, 250
 Richmond, 3
 Robinson, Beverly, 510, 538, 539
 Robinson, Moses, 300, 406, 407, 433,
 462, 532, 548
 Robinson, Nathaniel, 335
 Robinson, Samuel, 80, 83, 85, 105
 Robinson, Samuel, Jr., 146
 Rockingham, 9, 23, 25, 184, 189, 297,
 439; Marquess of, 99
 Rogers, James, 75, 82, 268, 301, 489
 Rogers, Nathaniel, 101
 Root, Jesse, 500, 501
 Root, Timothy, 441
 Rose, James, 249, 250
 Rosebrook, James, 120, 121
 Rouville, Hertel de, 5
 Rowley, Thomas, 271, 472
 Royalton, 335, 517, 518
 Ruggles, Timothy, 31, 38
Runnymede, 1
Rural Magazine, the, 466
 Russell, Azubah, 351
 Russell, E., 421
 Russell Farm, 275
 Rutherford, Walter, 118, 119, 126 ff.
 Rutland, 247, 490, 491
- Sabin, Noah, 243, 246-248
 Safford, Joseph, 377, 379, 518
 Safford, Samuel, 300
 St. Albans, 3
 St. Clair, General, 402
 Saltash, 27, 34. *See also* Plymouth
 Sargent, John, 373
 Sartwell's Fort, 6
 Sartwell's tavern, 160, 161
 Savage, Samuel Stow, 447, 506, 523,
 525, 541
 Sayles, Duty, 354
 Sayles, Hannah, 351, 398
 Schuyler, Philip, 263, 402, 403, 410,
 429, 533, 544
 Sedgwick, Theodore, 523
 Sedgwick, Mrs. Theodore, 523
 Seeley, Abner, 286, 299, 304-306, 322
 Seeley, Nathaniel, 334
 Seers, Samuel, 89, 91, 193
Semi-weekly Eagle (Brattleboro), 183
 Sessions, John, 287, 291, 315, 320, 328,
 333, 341, 342, 402, 417, 499; at New
 York convention, 308 ff.; letters
 from, 362, 363, 418, 419
 Sharon, 517, 518
 Shearer, Augustus Hunt, 548
 Sheddsville, 87 n.
 Sheldon, 247
 Shelburne, Lord, 32, 75, 80, 81, 85
 Sherburne, 27
 Sherman, Roger, 286, 499 n.
 Sherwood, Justus, 401, 492, 514, 538;
 banishment of, 489; interview with
 Ethan Allen, 518, 519
 Shrewsbury, 490
 Simonds, Titus, 448, 490
 Skene, Philip, 33, 251, 252, 402, 530
 Slade, William, 14 n., 391, 394, 432, 434,
 437, 472, 473
 Slade, William, Jr., 376
 Slayton, Joshua, 263
 Smead, Asa, 294
 Smead, Joel, 220
 Smeed, John, 91
 Smeed, Simeon, 86
 Smeed, William, 91, 185, 190, 193, 221,
 222, 259, 260, 318, 352
 Smeed, William, Jr., 92, 352
 Smith, Asahel, 263, 518
 Smith, Israel, 362, 367, 441
 Smith, Lois, 51, 89
 Smith, Noah, 461, 492, 524
 Smith, Roswell, 263, 495
 Smith, Samuel, 89, 227
 Smith, Steel, 49 ff., 74, 86-91, 115, 194,
 352, 417, 425, 494, 498, 505, 534;
 first Windsor settler, 42, 49, 227;
 property of, 50, 51; among Windsor
 grantees, 69; among rioters, 150, 155,
 161; process obtained against, 165;
 town treasurer, 446
 Smith, William, 169, 178
 Society for the Propagation of the Gos-
 pel in Foreign Parts, 26, 85, 251
 South Carolina, 98
 South Hero, 505
 Southgate, Doctor, 100
 Spaulding, Leonard, 335, 367, 370
 Spear, Andrew, 370
 Spencer, Benjamin, 37, 231, 367, 380,
 404, 405
 Spicer, Anna, 350
 Spicer, Zephaniah, 223 n.
 Spooner, Alden, 463, 464, 480, 482, 483,
 498, 505
 Spooner, Judah Paddock, 463
 Spooner, Paul, 175, 241, 256, 268, 364,
 380, 404, 405, 417, 432, 433, 462, 481

- Springfield, 6, 9, 25, 146, 288, 365, 380, 536
- Stafford, Abel, 193
- Stamford, 23
- Stamp Act riots, 63
- Stark, John, letter from, 377, 378, 407, 410, 411, 456
- State Papers*, 473, 531
- Statutes of the Realm*, 108
- Steele, Jason, 51
- Stevens, Enos, 42, 69, 74
- Stevens, Joseph, 87
- Stevens, Levi, 193, 353
- Stevens, Samuel, 75, 265 n., 328, 356, 368 n.
- Stevens, Simon, 82, 142, 274, 287, 291, 308 ff., 315, 341, 342, 417, 440, 520
- Stevens, Willard, 69, 74, 75
- Stiles, Ezra, 264, 524
- Stockwell, Abel, 124
- Stockwell, Quentin, 5
- Stone, Caleb, 74, 228, 350
- Stone, David, 40, 52, 54, 58-62, 74, 80, 82, 87, 114, 115, 150, 165, 176, 189, 190, 193, 226; sealer of weights and measures, 145; in Chester riot, 159; death of, 262
- Stone, David, Jr., 31, 32, 67-69
- Stone, George M., 546
- Stone, Joel, 52, 54, 69, 74, 82, 194, 262
- Stone, Martha, 69, 74
- Stone, Mary, 69, 74, 89
- Stone, Nathan, 52, 76, 86, 89, 92, 96, 106, 115, 116, 247, 265 n., 318, 347, 348, 541; agent for Windsor Proprietors, 42, 87; outstanding individuality among early settlers, 54; petitions of, 59-63, 142, 172 ff., 192 ff., 231, 232; survey made for, 67, 68; certificate of sale to, 69 ff., 80; in militia, 81, 82; commission, 83; town government organized by, 113 ff.; riots led by, 147 ff., 154 ff., 161 ff.; determination of, to oppose county officers, 147, 148; arrest and rescue of, 149; complaint against, 165; appointment to government office, 175, 176; subsiding of rebellion of, 175 ff.; letter from, 178-181; his support of change in county seat, 186; deed executed in favor of, 216; grantees of, 219, 220; recognition of achievement of, 226; a Loyalist, 226, 492; his memorial to New York Congress, 319; property of, 352; Allen's attack on, 361, 362; hostility to, 362; opposition of, to new state, 297, 412, 413; license for sale of liquors issued to, 228; loyalty to New York, 230, 231; prosecution of, 492, 493; elected to school committee, 534
- Stone, Polly, 89
- Stone, Samuel, 40, 52-55, 67-69, 74, 87, 114, 132, 165, 193, 194, 226, 227, 262, 294; deer reef, 145; arrest and rescue of, 149; among rioters, 150
- Stone, Samuel, Jr., 31, 32
- Stone, Zedekiah, 40, 52, 55, 74, 114, 115, 150, 185, 193, 194, 350, 412; a Windsor grantee, 31, 32; one of Windsor Proprietors, 36, 41, 86; property of, 54; petition of, 58-62; survey made for, 67, 68, 198 ff.; certificate of sale to, 69 ff., 80; commission of, 83; on school committee, 145; bond given by, in behalf of Hubbard, 438, 448; statement of, about Allen's Philadelphia bargains, 466, 467
- Strafford, 401
- Strong, Elnathan, 89, 91, 120, 145, 150, 165, 193, 352, 534
- Strong, John, 293, 500
- Suaro Maug, the, 5
- Sullivan, General, 499 n.
- Sunderland, 119
- Supreme Court, decision of, in ejectment suits, 167, 169
- Swan, William, 69, 194
- Taylor, David, 42
- Taylor, John, 281, 282, 286, 315, 316; his letter on conditions in Cumberland County, 320-322
- Ten Broeck, Abraham, 283, 343
- Thatcher, Partridge, 251
- Thetford, 9, 401
- Thomlinson, 23
- Thompson, Zadock, 6, 7, 35, 40, 49, 52, 53, 201, 472, 525
- Thompson's Vermont*, 7, 18, 24, 35, 49, 52, 74, 113
- Thomson, Hezekiah, 52, 55, 88, 91, 114, 145, 150, 190, 194, 224, 228, 232, 235, 253, 259, 318, 345, 352, 355, 438, 446, 494, 507
- Thomson, Joseph, 150, 165, 495, 525
- Throop, John, 377, 379, 433, 533
- Thurston, Benjamin, 134, 150
- Thurston, David, 159
- Ticonderoga, 257, 384, 398, 401
- Tilden, Stephen, 293, 335, 338, 537
- Townshend, 23, 265, 288, 365
- Townshend, Charles, 33
- Townsend, Micah, 426, 441, 499, 520, 521, 539, 540
- Trask, Nahum, 479 n.
- Trees, violation of timber law, 108, 117 ff.; early statutes concerning, 108, 109
- Tryon, Governor, 16, 247, 259, 392
- Tryon, William, 20, 194
- Tullar, David, 439, 494, 534
- Tunbridge, 517
- Tute, Amos, 373
- Tyler, Royall, 56

- United States, Oath of Allegiance to, 346
- Upham, George B., 191 n.
- Upham, William, 293
- Upper Regiment, the, 273, 275, 364
- Utley, William, 160
- Van Cortlandt, Pierre, 410; letter to, 401, 402
- Vermont, debt of, to Charles II, 3, 21; settling of, 5 ff.; naming of towns, 33, 34; early settlers, 52 ff.; formation of, 15, 293, 376 ff., 443; admission of, to Union, 18; counties in, 82-84, 437, 469, 470; timber depredation in, 97, 101 ff., 108, 117; records of, 83, 548; first seal of, 107, 351, 478-480; Act of 1784, 117 n.; birth of, 151; Dean case, 169, 170; turmoil in, 230, 242, 244 ff., 489 ff.; conventions in, 235, 237 ff., 293; Young's activities in, 356 ff.; naming of, 359, 368; the constitution, 384, 385, 386 ff., 424, 472; dissolution of, with parts of New Hampshire, 394, 395, 488, 489; Council of Safety, 400, 404 ff., 414, 417, 421, 429, 430; preamble to constitution of, 414 ff., 419, 420; proposed annexations to, 422, 436, 447, 455-458, 465 ff.; 481 ff., 520, 521, 527 ff.; courts in, 448 ff., 472; first constitutional elections, 424 ff.; General Assembly, 430-433, 434 ff., 462 ff., 516, 528 ff.; members of first legislature, 434, 435; early judicial proceedings, 438, 449, 450; taxes in, 451, 525, 526; confiscation of property in, 451, 452; separatist movement in, 471 ff.; controversy over location of seat of government, 486; legislature, 451, 488, 489, 516, 536; claims on, of neighboring states, 489, 518 ff.; militia in, 495 ff., 543; division of ungranted townships, 498; pamphleteering in, 502; new townships, 505; reunion of western New Hampshire with, 514; possibility of becoming British province, 509, 510, 514, 515, 517, 538-542; danger from Indians, 517, 518
- Vermont Historical Society's Collections*, 383, 391, 395, 461
- Vermont Journal*, 34, 55
- Vermont Republican*, 49 n.
- Vermont State Papers*, 339, 387, 391, 432, 434, 437
- Vermont, The*, 478
- Vermont's Appeal*, 502
- Vernon, 6, 9. *See also* Hinsdale
- Victoria, Queen, 99
- Vindication of the Conduct of the General Assembly of the State of Vermont*, 481, 485, 487, 488, 491
- Vindication of the Opposition of the Inhabitants of Vermont to the Government of New York*, A, 502, 503, 504
- Wait, Benjamin, 62, 63, 74, 92, 117 n., 130, 137, 146, 190, 235, 240, 256-262, 294, 389, 399, 411, 416, 421, 505, 506, 533; a Windsor settler, 52, 54; officer in Revolutionary War, 54; land patents sought by, 82; at town meetings, 86, 87, 89, 114; his part in Dean prosecution, 106, 120 ff., 132-135; property of, 133, 353; arrest and rescue of, 149; among rioters, 150, 155; application of, for grant, 176; license for sale of liquors issued to, 228; letter from, 398; favored by politicians, 499, 500
- Wait, Gad, 441
- Wait, Joseph, 62, 63, 92, 114, 115, 135, 144, 145, 260; a Windsor settler, 52, 54; officer in Revolutionary War, 54; land patents sought by, 82; arrest and rescue of, 149; among rioters, 150, 155 ff., 159 ff.; complaint against, 165; grant to, 176; death of, 261
- Wait, Martha, 262
- Wait, Richard, 318, 346, 348, 353, 354, 416, 494, 505, 525
- Walker, Timothy, 11 n.
- Wallace, Ebenezer, 450
- Walpole, 9, 514; convention at, 520
- Walpole, Horace, quoted, 4 n.
- Walton, Eliakim P., 8, 66, 237, 264, 271, 286, 296, 330, 338, 345, 372, 376, 379, 390, 392, 394, 395, 406-409, 422, 427, 432-434, 486, 504, 508
- Ward, Stephen, 117 n., 218
- Wardner, Henry S., 50 n., 546
- Warner, Seth, 230, 253, 255, 257, 258, 264, 286, 299, 304, 306, 345, 400-403, 411, 428, 489, 537; his Green Mountain Boys, 262 ff.; letter from, 383, 384
- Warren, Joseph, 356
- Washington, General, 453; Duane appointed Federal judge by, 129; on Allen, 263; letter to, 331; army of, 421; his attitude toward expulsion of Loyalists, 456; quoted, 542, 543; Washington County, erection of, 536
- Watson, Ebenezer, 342
- Watson, Hannah, 414
- Watson-Wentworth, Charles, 33, 98
- Weare, Meshech, 409, 410, 458, 467; letter from, 458, 464, 465, 482; letters to, 473-476, 496
- Weathersfield, 9, 25, 34, 189, 288, 365, 417, 440, 452, 536
- Webb, Joshua, 154, 325, 335, 371
- Webster, Alexander, 291, 374
- Webster, Daniel, 3
- Wellman, Isaac, 95

- Wellman, James, 90-95, 135, 234, 350, 398
 Wellman, Solomon, 95
 Wendell, John, 105
 Wendell, a notary, 134
 Wells, Frederick P., 408
 Wells, Jona., 7
 Wells, Obadiah, 373
 Wells, Samuel, 57, 76, 82, 83, 96, 122 ff., 128, 142, 146, 147, 174, 243, 247, 253, 521, 522 n., 536, 537, 539, 540; Dean's bill of sale to, 138, 139; complaint against, 141; Stone's friendship for, 147-149; at Chester, 155; memorial concerning conduct of, 168; organizer for movement in favor of change in county seat, 186
 Wentworth (N. H.), 100
 Wentworth, Benning, 10-17, 18, 20-22, 37, 38, 88, 174, 419, 545; grants made by, 12, 23 ff., 45 ff., 57, 61; criticism of, 97; death of, 181; advertisement for claimants under charter of, 216-218
 Wentworth, Frances Deering. *See* Atkinson
 Wentworth, John, 26, 98, 174 n., 182; in Paris, 99; governor of Nova Scotia, 99; part of, in history Vermont, 100 ff.; efforts of, to extend New Hampshire jurisdiction, 111 ff.; complaint of Deans, 117 ff., 131, 134; test of validity of charters of, 118, 127, 128; advice to Bayley, 191, 192; consents to release of Deans, 140; drawing of petition attributed to, 142, 172; Allen seeks advice of, 167; letter from, 171; grant to Joseph Wait, 176
 Wentworth, Mark Hunking, 105, 134
 Wentworth, Paul, letter to, 142, 143
 West, Elijah, 351, 383, 434 n.
 West, Hannah, 351
 West Parish cemetery, 87 n.
 Westminster, 6, 9, 23, 121, 184, 189, 231, 265, 284, 365, 440, 497; riot in, 244 ff.; conventions at, 239 ff., 251, 252, 265 ff., 275, 324, 334, 343, 344, 366; the Massacre, 242, 445 ff.; abandonment of, as convention town, 342; meeting of Cumberland County Committee at, 372, 373; the jail, 384
 Westminster Court House, seizure of, 244
 Westmoreland, 9
 Wheelock, Eleazar, 95, 261, 336, 463
 Wheelock, John, 336, 473, 481, 488
 Whipple, Daniel, 147, 149, 150, 158, 164, 183, 243
 Whiston, Samuel, 150
 White, John, 150
 White, Pliny, 382, 392, 394
 White Plains, 287, 288, 291
 White River Valley, 517, 518
 Whiting, Benjamin, 103, 118, 119 ff., 172, 293; surveyor of King's Woods, 130, 131, 133; his part in Dean prosecution, 126, 132 ff., 146, 147
 Willard, Joshua, 38, 69, 74
 Willard, Josiah, 27, 31, 36-38, 40, 57, 76, 95
 Willard, Josiah, Jr., 40
 Willard, Oliver, 26, 27, 32, 51, 52, 57, 95, 163, 164, 173
 William, King, 15
 William, Prince, 82
 Williams, John, 291, 374, 399, 402, 423, 426, 543, 544
 Williams, Joseph, 334
 Williams, Samuel, 5, 8, 183, 237, 386, 466, 472, 509-511, 520, 539
 Williams, Wilam, 14, 256, 257, 260, 265, 268, 363, 364, 380, 384, 407, 408
 Wilmington, 23
 Wilson, George, 69
 Wilson, Lucius, 373
 Wilson, Thomas, 447
 Winchester, 36, 39, 43
 Windham County, 532, 540
Windham County Battlefield: The Ambush at the Salmon Hole, A, 7
 Windsor (Conn.), 34
 Windsor, beginning of, 1; Indian monuments in, 7, 8; settling of, 9, 49 ff.; grant of, 25, 27 ff., 37, 38, 67 ff., 80, 189; naming of, 33, 34; first settler, 42, 49, 50, 227; the Proprietors, 35-42, 43, 86, 87, 115, 192, 452, 545, 546; petition of, for new grant, 56 ff., 79, 192 ff.; surveyor's return, 67, 68; certificate of sale, 69-72; first town officer, 82; records in, 83, 114, 265, 345, 545-548; "public yard" in, 87; mills in, 87, 90, 349, 351, 354; taxes in, 88; highways in, 88, 89, 353; emigration to, 89; first birth in, 89, 227; establishment of church in, 90 ff.; Wentworth's visit to, 101 ff.; pines in, 101, 102, 133; organization of town government, 106, 107 ff., 113 ff.; violation of timber law in, 108, 109, 117 ff.; attitude of, toward lawyers, 110; attack on John Grout, 115, 116; first recorded notice of town meeting at, 143, 144; riots in, 145 ff., 154 ff., 159 ff., 242; a tragedy in, 177; population of, in first census, 184, 185; an early will recorded in, 201; New York charter for, 202 ff.; town meetings, 224 ff., 233 ff., 253, 259, 260, 268, 274, 317, 318, 345-347, 364, 375, 425, 460, 487, 494, 506, 507, 525, 534, 541; traditions of, 227; first death, 227; quitrents, 228; development of, 228; birthplace of Vermont, 229; loyalty of, to New York, 230, 231; Meeting House, 233-235, 351,

- 371, 375 n.; meeting at, of nominating committee, 273, 274; Committee of Safety, 293 ff., 348, 417; delegate from, sent to Dorset convention, 297, 299 ff.; signers from, of Stone's memorial, 319, 320; investigation in, of Hoisington, 331-333; chosen as convention town, 342; political importance, 349, 355 ff.; probable appearance of, in 1777, 349 ff.; conventions at, 355, 366 ff., 376 ff., 419, 420; Congregational Church of, 355; declines to act under New York's election ordinance, 364; reign of terror, 396; military movements in, 417; legislature at, 420, 461 ff., 498; first town meeting at, under independent Vermont, 446 ff.; political controversy around, 452; two townships, 460; compared with Cornish, 477, 478; two parishes in, 494, 495; danger to, from Indians, 517, 518; new inhabitants, 523 ff.; scene of negotiations for new union of New Hampshire Grants, 528 ff.; County of, 532, 536, 541; districting of, 534, 535; favors union of New Hampshire towns, 536; county buildings, 541
- Windsor County History*, 219
- Windsor Great Park, 84
- Windsor Rock, 386
- Witherspoon, John, 500, 501
- Wood, Ebenezer, 446, 461, 505-507, 523, 525
- Woodford, 23
- Woodruff, Joseph, 193, 353, 417
- Woodstock, 9, 27, 536; records at, 547
- Woodward, Bezaleel, 462, 469, 483 ff., 502, 511, 513, 520, 521
- Woodworth, Amaziah, 371
- Worcester, Asa, 417
- Wright, Moses, 335
- Wright, Zadock, 448
- Yates, Abraham, Jr., 401
- Young, David, 69
- Young, Thomas, 328, 372, 385, 387, 390, 400, 442, 356 ff.; letter from, 357-359; activities in forming Vermont, 367

